

# Ohio Consolidated Performance Review Report FY 2022

**Commendations**  
**0**

**Met Requirements**  
**29**

**Recommendations**  
**5**

**Action Required**  
**18**

*Final Report*  
*4/08/2022*



U.S. Department of Education  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

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# GENERAL INFORMATION

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## OVERVIEW OF THE CONSOLIDATED PERFORMANCE REVIEW

The U.S. Department of Education’s (Department’s) 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 Ohio Department of Education (ODE) that occurred on November 1-5, 2021. The review covered:

- 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, Migrant Education;
- 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 A of the ESEA, Student Support and Enrichment Program
- Title V, Part B, Subpart 2 of the ESEA, Rural and Low-Income Schools; and
- Elementary and Secondary School Emergency Relief Fund (ESSER) and Emergency Assistance to Non-Public Schools (EANS).

This 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 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 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 IV identifies those areas where the State has met the requirements but 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 A, Title V, Part B, Subpart 2; as well as ESSER I and EANS I#



### FEDERAL FUNDING<sup>1</sup>

Title I, Part A	\$597,709,276
Title I, Part B	\$10,312,777
Title I, Part C	\$1,422,900
Title II, Part A	\$75,036,256
Title III, Part A	\$11,625,929
Title IV, Part A	\$42,894,730
Title V, Part B, Subpart 2	\$3,112,817
ESSER I	\$489,205,200
EANS I	\$154,896,274

### Dates of Review

SEA: November 1-5, 2021.  
Subrecipients: November 8-25, 2021.

### ED Reviewers

Shane Morrissey (Management Support Office)  
 Jameel A. Scott (Management Support Office)  
 Dan Behrend (Management Support Office)  
 Jedidiah Sorokin-Altman (Management Support Office)  
 Jane Hodgdon (State and Grantee Relations)  
 Britt Jung (State and Grantee Relations)  
 Christopher Fenton (State and Grantee Relations)  
 Melissa Siry (Office of School Support and Accountability)  
 Deborah Spitz (Office of School Support and Accountability)  
 Elizabeth Witt (Office of School Support and Accountability)  
 Ariel Jacobs (Office of School Support and Accountability)  
 Fatimah Abdullahi (Office of School Support and Accountability)  
 Kateri Spear (Office of School Support and Accountability)  
 Sophia Hart (Office of School Support and Accountability)  
 Bryan Thurmond (Office of School Support and Accountability)  
 Fariba Hamedani (Office of School Support and Accountability)  
 Todd Stephenson (Office of School Support and Accountability)  
 Scott Richardson (Office of School Support and Accountability)  
 Leslie Poynter (Rural Education Achievement Program)

<sup>1</sup> FY 2021 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 awarded to a State. In addition to other formula funds awarded to each State, States and other entities may also receive funds from grants that are awarded on a competitive basis. ESSER I and EANS I refer to the 1<sup>st</sup> round of funding for the Elementary and Secondary School Emergency Relief fund (ESSER) and Emergency Assistance to Non-Public Schools (EANS) from the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) respectively: (<https://oese.ed.gov/files/2020/04/ESSER-Fund-State-Allocations-Table.pdf>) and EANS ([https://oese.ed.gov/files/2021/01/FINAL\\_GEERII\\_EANS-Methodology\\_Table\\_1.8.21.pdf](https://oese.ed.gov/files/2021/01/FINAL_GEERII_EANS-Methodology_Table_1.8.21.pdf)) funding.

Alice Kinney (Rural Education Achievement Program)  
 Robert Hitchcock (Rural Education Achievement Program)  
 Patricia Meyertholen (Office of Migrant Education)  
 Benjamin Starr (Office of Migrant Education)  
 Michael Meltzer (Office of Migrant Education)

**Subrecipients  
 Participating in the  
 Desk Review**

Youngstown City School District  
 Elyria City School District  
 Constellation Stockyard Elementary  
 Marion City Schools  
 Willard City Schools  
 Ohio Migrant Education Center

**Current Grant  
 Conditions**

Title I, Part A:	(2) ODE must provide documentation regarding the quality of its standards and assessments for its general and alternate reading/language arts, mathematics, and science assessments and for its English language proficiency assessments
Title I, Part C:	None
Title II, Part A:	None
Title III, Part A:	None
Title IV, Part A:	None
Title V, Part B, Subpart 2:	None
ESSER	None
EANS	None

# 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	● ● ● ● ○

**TITLE I, PART A & TITLE I, PART B**

<b>Topic</b>	<b>Status</b>
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	● ● ● ● ○
Subrecipient Monitoring (Title I, Part A)	● ● ● ● ○
Other Title I Requirements	● ○ ○ ○ ○
Best Interest Determinations	● ● ● ● ○
LEA Points of Contact, Transportation Procedures	● ● ● ● ○

**TITLE I, PART C**

<b>Topic</b>	<b>Status</b>
Identification and Recruitment – Quality Control	● ○ ○ ○ ○
Identification and Recruitment	● ● ● ● ○
Migrant Student Information Exchange	● ○ ○ ○ ○
Performance Reporting	● ○ ○ ○ ○
Provision of Services	● ● ● ● ○

**TITLE II, PART A**

<b>Topic</b>	<b>Status</b>
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders	● ○ ○ ○ ○
Supplement, Not Supplant	● ● ● ● ○

**TITLE III, PART A**

<b>Topic</b>	<b>Status</b>
Supplement Not Supplant	● ○ ○ ○ ○
Parent Notification	● ○ ○ ○ ○
Standardized Statewide Entrance And Exit Procedures, Students Enrolling From Another State	● ○ ○ ○ ○
Standardized Statewide Entrance And Exit Procedures, Entrance Procedures	● ○ ○ ○ ○



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

<b>Topic</b>	<b>Status</b>
RLIS Program Objectives and Outcomes	● ● ● ○
SEA Financial Management	● ● ● ○
Use of Funds	● ● ○ ○
Program Administration	● ● ● ○
RLIS Subrecipient Monitoring	● ● ● ○

## Action Required

### Cross-Cutting Financial & Programmatic

#### ALLOCATIONS

#### REQUIREMENT SUMMARY

Description: 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

##### Title I, Part A

Section 4306(a) of the ESEA requires that, for purposes of allocations under Federal formula grant programs, including Title I, Part A of the ESEA, an SEA take measures to ensure that every new or significantly expanded charter school, including charter school LEAs, receives the Federal funding for which it is eligible not later than five months after the charter school first opens or significantly expands. In other words, a newly opened or significantly expanded charter school must receive Federal funds based on the identity and characteristics of students who are enrolled in the charter school when it opens or significantly expands, even if those data are not fully and completely determined until the charter school actually opens or expands.

Section 4306(c) of the ESEA further requires an SEA to calculate a hold-harmless base for a newly opened or significantly expanded charter school LEAs under each Title I, Part A formula. The hold harmless bases must reflect the new or significantly expanded enrollment of the charter school LEA. If this is not done, the intent of section 4306(a)—*i.e.*, to ensure that allocations reflect the actual enrollment of a new or significantly expanded charter school LEA—is not realized. Without this requirement, a new or greatly expanded charter school LEA might receive few, if any, Title I, Part A funds if those funds are needed to increase the allocation of other LEAs to meet their hold-harmless amounts.

ODE provided its procedures for adjusting the Department-determined Title I, Part A allocations and a spreadsheet that showed its calculations for Federal fiscal year (FY) 2021 preliminary Title I, Part A allocations. Neither the procedures nor the FY 2021 spreadsheet showed how ODE complies with ESEA

section 4306(c). Therefore, the Department is unable to conclude that ODE has correctly implemented this provision.

## **Title II, Part A**

Under ESEA section 2102(a)(2), for the Title II, Part A funds available for LEAs under ESEA section 2101(c)(1) an SEA must allocate:

- 20 percent of these funds to LEAs based on the relative number of individuals ages 5 through 17 who reside in the area the LEA serves based on the most recently available data from the U.S. Census Bureau (Census Bureau) or equivalent data derived by the SEA for LEAs for which Census estimates are not available; and
- 80 percent of these funds to LEAs based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves and who are from families with incomes below the poverty line (based on the most recently available data from the Census Bureau or equivalent data derived by the SEA for LEAs for which Census Bureau estimates are not available).

The documentation provided showing the procedures ODE uses to calculate Title II, Part A allocations for LEAs indicates that ODE allocates Title II, Part A funds as follows:

- 20 percent of these funds to LEAs based on LEAs' Average Daily Membership (ADM), as reported by LEAs in the State's EMIS system; and
- 80 percent of these funds to LEAs based on LEAs' Title I, Part A total formula count (TFC).

For many LEAs, their Title I, Part A TFC includes children from categories other than children in poverty as estimated by the Census Bureau (e.g., children in foster homes). Therefore, ODE's use of LEAs' Title I, Part A TFC for Title II, Part A allocations is incorrect. Instead, ODE must use LEAs' poverty estimates from the Census Bureau or its derived poverty estimates for LEAs, such as its charter school LEAs, for which data from the Census Bureau are not available. Similarly, ODE's use of the ADM in the Title II, Part A formula for LEAs for which population estimates from the Census Bureau are available is incorrect because ADM reflects the membership of the LEAs rather than the number of individuals ages 5 to 17 who reside within the LEA boundaries. For LEAs such as the charter school LEAs for which data from the Census Bureau are not available, ODE may continue to use ADM data.

## **REQUIRED ACTION**

### **Title I, Part A**

Within 60 business days of receiving this report, ODE must provide the Department one of the following, as applicable:

- Evidence that for FY 2020 (school year 2020-2021) and FY 2021 (school year 2021-2022) Title I, Part A allocations, ODE calculated a hold harmless base under each Title I, Part A formula for a newly opened or significantly expanded charter school LEAs that reflected the new or significantly expanded enrollment of the charter school LEA (e.g., by providing the Department with spreadsheets that clearly show where ODE has calculated the hold harmless base);

or

- If ODE cannot provide the information requested above because it did not perform such a calculation, evidence that ODE has revised its procedures to calculate hold harmless bases

consistent with ESEA section 4306(c) and revised FY 2020 and FY 2021 Title I, Part A calculations that show the differences between the revised calculations and the previous calculations for each LEA.

### **Title II, Part A**

Within 60 business days of receiving this report, ODE must provide the Department with evidence that it has revised its procedures to calculate Title II, Part A allocations consistent with ESEA section 2102(a)(2), as described above, and revised FY 2020 and FY 2021 Title II, Part A calculations that show the differences between the revised calculations and the previous calculations for each LEA.

## LOCAL APPLICATIONS AND PLANS

## REQUIREMENT SUMMARY

Description: To receive a subgrant under any covered programs as defined in section 8101(11), and 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

ESEA section 8306(a) requires that any applicant, other than the SEA, that submits a plan or application under the ESEA, shall have on file with the SEA a single set of assurances, applicable to each program for which a plan or application is submitted that meet the requirements in section 8306(a)(1)-(7). ODE provided evidence that the SEA requires LEAs to submit a consolidated plan through the Comprehensive Continuous Improvement Plan (CCIP) and, by 2023, in the ED STEPS system. It provided the assurances that are included in this plan.

Based on the assurances provided, ODE does not appear to include an assurance that addresses ESEA section 8306(a)(7) that states, “before the application was submitted, the [LEA] afforded a reasonable opportunity for public comment on the application and considered such comment.”

In subsequent communication, ODE noted that it intends to add a question within its monitoring system to ensure that each LEA submits evidence that it provided the public the opportunity to comment on the local plan. In addition, through the ED STEPS system, ODE will include a validation to ensure that the LEA provides the opportunity for public comment prior to submitting the plan to ODE for approval.

## REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit to the Department either:

- Documentation demonstrating that the current LEA assurances meet all requirements in ESEA section 8306, including the assurance that an LEA provided the public and opportunity to comment and considered the public’s comments.

or

- A revised assurance template for collecting all required assurances in ESEA section 8306, including the assurance that an LEA provided the public and opportunity to comment and

considered the public's comments, as part of ODE's next subaward grant cycle (i.e., for the 2022-2023 school year).

## EQUITABLE SERVICES

## REQUIREMENT SUMMARY

Description: 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. Where applicable, the SEA shall ensure that it uses Federal funds for State-level activities to provide benefits to eligible students and educators.

ESEA §§ 1117; 8501  
Regulations 34 C.F.R. §§ 200.62-67; 299.6; and 299.9  
EDGAR C.F.R. § 76.661

## ISSUE

ESEA section 8501 requires a State to provide equitable Title II, Part A services to ensure that teachers, principals, and other school leaders in participating private schools participate on an equitable basis as public school teachers, principals, and other school leaders. ESEA section 8501(c) requires meaningful consultation with private school officials in order to determine the needs of private school educators. This requirement applies not only to Title II, Part A funds that are allocated to LEAs, but also to the program funds that the SEA retains at the State level to carry out State activities under ESEA section 2101(c)(4). The requirement in 2101(c)(4) presumes that meaningful consultation begins with SEAs identifying private school educators' needs and then providing activities that meet those needs. ODE is not carrying out all requirements regarding the provision of equitable services to eligible nonpublic school educators using State-level activity funds. While ODE invites private school educators to participate in activities it provides to public school educators with State-level Title II, Part A funds, it provided no evidence that the consultation process originates with an effort to determine the needs of private school educators. ODE currently meets at least quarterly with a nonpublic advisory committee, where it shares its planned activities and entertains alternative suggestions for activities from the committee. ODE's consultation process begins not with an inquiry about the needs of private schools, but with ODE's planned activities, in which interested private school educators may participate. As a result, private school educators are at risk of not having their professional development needs addressed by Title II, Part A State activities funds.

### Transfer of Public Funds for Equitable Services

ESEA section 8501(d) requires an LEA to maintain control of ESEA program funds, materials, equipment, and property under a covered ESEA program like Title III and to administer the funds and property. To meet this requirement, an LEA must order materials and equipment for use by private school students and retain title to those materials and equipment.

ODE's 2021 Title III Consortium Meeting - YouTube [video](#), starting at approximately minute 55, appears to indicate that private schools can access Title III funds by submitting purchase orders. While we do not have evidence of a specific occurrence, private school officials have no authority to obligate or receive ESEA program funds and therefore may not submit purchase orders for materials or equipment

that they purchased for reimbursement. It is important that ODE program staff understand and carry out the requirements of ESEA section 8501(d).

### **REQUIRED ACTION**

Within 60 business days of receiving this report, ODE must submit to the Department a plan and a timeline for how the State will engage in meaningful consultation (that meets the requirements of ESEA section 8501(c)) with private school officials regarding how State activities funded with Title II, Part A will be responsive to the professional development needs of private school educators, as required by ESEA section 8501(a)(1).

### **RECOMMENDATION**

The Department recommends that ODE provide training to SEA and LEA officials, as appropriate, to ensure compliance with requirements for public control of Title III funds associated with services provided to students and teachers in private schools, as provided in ESEA section 8501(d) Public Control of Funds.



## Title I, Part A; Title I, Part B

### STATEWIDE ACCOUNTABILITY SYSTEM

### REQUIREMENT SUMMARY

Description: 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); 8101(25)

### ISSUE

ODE's Report Card Technical Documentation Disclaimer, a technical guide published for its report cards, contain business rules for its graduation rate calculations that are inconsistent with statutory requirements. Specifically, ODE indicates in this technical guide published on report card requirements that "Graduation rates will only be calculated for a high school that includes students in grades 10-12, inclusive. If a building does not educate the entire 10-12 grade span, then a graduation rate would not be calculated for that building. A graduation rate would be calculated for the district if the district includes grades 10 through 12" (page 2). Ohio has several schools that serve grade 12 but do not serve all of grades 10-12.

The ESEA defines a "high school" as a secondary school that grants a diploma, as defined by the State, and includes, at least, grade 12 (ESEA section 8101(28)). For high schools that start after grade 9, the original cohort for the ACGR must be calculated for the earliest high school grade students attend no later than the date by which student membership data must be collected annually by SEAs for submission to the Department's NCES (*i.e.*, on or about October 1) (ESEA section 8101(25)(D)(i)).

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit to the Department:

- An updated version of its technical guide, published for its report cards, that clarifies that ODE calculates an ACGR for any school with grade 12 that offers a high school diploma regardless of whether the school serves any other grades.

## IDENTIFICATION OF SCHOOLS

## REQUIREMENT SUMMARY

Description: An SEA shall identify schools for comprehensive or targeted support and improvement. With respect to schools identified for comprehensive support and improvement, identification shall occur at least once every three years and must result in the identification of a subset of schools that receive Comprehensive support, as required by the statute. The schools identified for comprehensive support and improvement must include: 1) not less than the lowest-performing 5 percent of schools receiving Title I, Part A funds, 2) all high schools with a graduation rate below 67 percent, and 3) schools that receive Title I, Part A funds that were previously identified for additional targeted support and have not exited such status after a State-determined number of years. In addition, an SEA must annually identify schools requiring targeted support and improvement based on having one or more consistently underperforming subgroups of students, as determined by the State. Finally, an SEA must identify all schools requiring additional targeted support based on having one or more subgroups performing as poorly as the all students group in the lowest-performing 5 percent of schools receiving Title I, Part A funds, and the frequency of identification of which is determined by the SEA. An SEA may also identify, in its discretion, additional statewide categories of schools.

ESEA §§ 1111(c)(4)(D), 1111(c)(4)(C)(iii), 1111(d)(2)(C)-(D), 1111(d)(3)(A)(i)(II)

## ISSUE

ESEA sections 1111(c)(4)(C) and 1111(d)(2)(C-D) require the State annually meaningfully differentiate all public schools and identify schools for comprehensive support and improvement (CSI), targeted support and improvement (TSI) (*i.e.*, schools with one or more consistently underperforming subgroups), and additional targeted support and improvement (ATSI).

During the monitoring review, the Department received conflicting information from the SEA regarding the identification of TSI and ATSI schools. Specifically, the SEA’s website and guidance notes that “all Title I-eligible schools” are included in the process for identification of TSI and ATSI schools. The ESEA requires, however, that TSI and ATSI schools must be identified from all public schools (Title I-eligible and non-Title I-eligible). ODE’s guidance and website also state that TSI schools will be identified every three (3) years following the 2018 identification. ESEA section 1111(c)(4)(C)(iii) requires that TSI schools are identified annually. Additionally, the State’s ESEA consolidated State plan labels ATSI schools as “Focus with Additional Targeted Support;” however, the State website and guidance do not include this category. Instead, the guidance and website refer to ATSI schools as “Warning schools.” The Warning schools category is not included in the ODE’s approved ESEA consolidated State plan.

While the SEA noted during monitoring conversations that the guidance and website were inaccurate

and identification of CSI, TSI, and ATSI schools was conducted consistent with the approved methods within the State's ESEA consolidated State plan, it did not provide evidence supporting this statement. As a result, the Department was unable to determine if ODE met requirements for identifying TSI and ATSI schools.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, ODE must submit to the Department evidence that:

- ODE's website and guidance has been updated to reflect what is in the approved ESEA consolidated State plan and consistent with ESEA requirements.
- ODE identified TSI and ATSI schools from among all public schools in fall 2019 based on data from the 2018-2019 school year. If ODE is unable to provide this evidence within 60 business days, ODE must provide evidence that it identified TSI and ATSI schools consistent with ESEA section 1111(d)(2)(A) and (C) and the State's approved ESEA consolidated State plan in fall 2022 as soon as possible, but no later than October 31, 2022, using data from the 2021-2022 school year. If ODE fails to meet this requirement, the Department may take additional enforcement action.

## SUPPORT FOR SCHOOL IMPROVEMENT

## REQUIREMENT SUMMARY

Description: 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);  
1111(d)(3)(A)

## ISSUE

ESEA section 1111(d)(1)(B)(4) and (d)(2)(C) requires each school identified for CSI and ATSI to develop a plan that identifies resource inequities to be addressed through implementation of the plan. ODE provided the fiscal year (FY) 2022 One Needs Assessment (ONA) Trigger Questions for schools and LEAs. Questions 15-17 of the Leadership, Administration, and Governance section within the trigger questions, require CSI, TSI, and ATSI schools to describe the resources needed to improve students' academic success. During its annual review process, the ODE Office for Improvement and Innovation (OII) reviews the LEA and school plan to ensure that the “plan identifies resource inequities, which may include a review of local educational agency and school-level budgeting. Resource equity refers to the allocation and use of resources (people, time, and money) to create student experiences that enable all children to reach empowering and rigorous learning outcomes.” However, neither the ONA Trigger Questions nor the consolidated application appear to require CSI and ATSI schools to address resource inequities within the CSI or ATSI plan.

ESEA section 1111(d)(2)(B)(i) requires that each school identified for TSI must develop a TSI plan that is informed by all indicators in the State's accountability system including student performance against long-term goals. During the review, ODE stated that the indicators in the ESEA consolidated State plan are aligned to the ONA Trigger Questions. Upon review of the FY 2022 ONA Trigger Questions, it is not evident that the ONA includes all indicators for each identified subgroup. For example, ODE requires TSI schools to report areas of reading achievement where students are not proficient (ONA section: Curriculum Instruction and Assessment – Content Areas question 6). The question provides possible data sources to consider including the reading/language arts summative assessment, language and literacy portion of the kindergarten readiness assessment, reading diagnostic assessments, and early learning assessment and screeners. To meet the requirement to address the Academic Achievement Indicator, TSI schools must explicitly consider the SEA summative assessments in reading/language arts and mathematics. Additionally, it does not appear that the ONA Trigger Questions require the identified

school to consider all identified subgroups when responding to questions aligned with indicators. For example, ODE includes student growth as an Other Academic indicator, but the trigger questions about growth data are only required for CSI schools and for TSI schools identified for the students with disabilities subgroup, rather than all identified subgroups in every TSI school. Finally, it is not evident how the ONA Trigger Questions require TSI plans to include consideration of every School Quality or Student Success (SQSS) indicator for each identified subgroup.

ESEA sections 1111(d)(1)(B) and 1111(d)(2)(B) requires that each school identified for CSI, TSI, or ATSI develop a support and improvement plan in partnership with stakeholders (including principals and other school leaders, teachers and parents). ODE described a process for reviewing CSI plans that included checking to ensure stakeholder involvement in the development of the plan. The Department could not corroborate that the identified school and LEA responses to ONA Trigger Questions were shared with stakeholders to inform the development of the plan. ODE described the ONA Trigger Questions as aligning with accountability indicators; therefore, stakeholders must have the opportunity to provide meaningful input on all components of the CSI, TSI, or ATSI plan, not just the priorities, goals, and strategies after the indicators have been considered.

ESEA section 1111(d)(3)(A)(ii) requires the SEA to periodically review resource allocation to support school improvement in each LEA in the State serving a significant number of CSI, TSI, and ATSI schools. ODE provided a contract proposal and draft plan for strategic resource allocation reviews in the State. The SEA described its plan to pilot a resource allocation review process with 10 LEAs and train individuals on District Leadership Teams (DLT), Education Service Center Technical Assistance teams (ESC), and State Support Teams (SST) to conduct resource allocation reviews. ODE explained that the SST and ESC will coach a subset of LEAs through the resource allocation review process. In submitted documentation and monitoring discussions, ODE clarified that the SEA has supported two (2) LEAs on conducting resource allocation review and that the plan and timeline for incorporating resource allocation review into the ONA for all LEAs is not final. The SEA did not provide a final protocol or timeline for how it will review resource allocation to support each LEA serving a significant number of schools identified for CSI or TSI.

## **REQUIRED ACTION**

Within 60 business days of receiving this report, ODE must submit to the Department:

- Evidence that the support and improvement plan template for CSI and ATSI schools includes the requirement to identify resource inequities to be addressed through implementation of that plan.
- Evidence that the TSI support and improvement plan template is informed by all accountability indicators (Academic Achievement, Other Academic indicator for elementary and secondary schools that are not high schools, Graduation Rate, Progress on ELP, and SQSS) and includes consideration of all identified subgroups.
- Evidence of guidance about including meaningful stakeholder involvement in the development of all areas of CSI, TSI, and ATSI plans, and a description of how ODE will monitor for implementation of stakeholder involvement – either in the plan approval process for CSI plans or within the SEA’s plan for monitoring LEAs.
- A final timeline and a plan, that includes implementation in the 2022-2023 school year, for implementation of resource allocation reviews in each LEA serving a significant number of CSI, TSI, or ATSI schools.

## **RECOMMENDATION**

As described by ODE, the SEA first requires LEAs to complete the ONA. The LEAs then select priority needs based on responses to the ONA Trigger Questions and exports them to the CCIP Planning Tool. Once a school improvement plan is approved, however, the components of the CSI, TSI or ATSI plans are contained across multiple documents, rather than one comprehensive CSI, TSI, or ATSI plan. The Department recommends that ODE revise the final school improvement plan template to include all required components of a CSI, TSI, or ATSI plan.

## 1003 SCHOOL IMPROVEMENT

## REQUIREMENT SUMMARY

Description: An SEA shall allocate and oversee the administration of 1003(a) school improvement subgrants so that LEAs and schools can effectively develop and implement comprehensive support and improvement and targeted support and improvement plans. The SEA must also conduct a rigorous review of 1003(a) subgrant applications to ensure that LEAs include all required elements.

ESEA §§ 1003(a)-(f), 1111(d)(1)-(2)

### ISSUE

Under ESEA section 1003(e), an LEA must submit an application to the SEA that describes how the LEA will:

1. Develop comprehensive support and improvement plans under section 1111(d)(1) for schools receiving funds;
2. Support schools developing or implementing targeted support and improvement plans under section 1111(d)(2), if applicable;
3. Monitor schools receiving funds;
4. Use a rigorous review process to recruit, screen, select, and evaluate any external partners with whom the LEA will partner;
5. Align other Federal, State, and local resources to carry out the activities supported with funds; and
6. As appropriate, modify practices and policies to provide operational flexibility that enables full and effective implementation of the plans.

The application must also include an assurance that each school the LEA proposes to serve will receive all of the State and local funds it would have received in the absence of ESEA section 1003 funds. ODE's LEA application for School Quality Improvement Grants (SQIG) did not include a description of how the LEA will use a rigorous review process to recruit, screen, select, and evaluate any external partners with which the LEA will partner in carrying out activities supported with school improvement funds.

ODE also provided its guidance document for allocating supplemental section 1003 funds through the Title I Non-Competitive, Supplemental School Improvement (SSI) formula grant program. This document states that only CSI, TSI, and ATSI schools that have not received an SQIG award are eligible for SSI. Each LEA that accepts SSI funds signs a set of assurances and submits a budget and budget details through the CCIP; however, it is not evident that these LEAs submit an application that meets the requirements in ESEA section 1003(e).

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit to the Department:

- An updated SQIG application that meets the requirements of ESEA section 1003(e), including a description of how the LEA will use a rigorous review process to recruit, screen, select, and

evaluate any external partners with which the LEA will partner in carrying out activities supported with school improvement funds.

- Revised SSI guidance and application template that includes all application requirements in ESEA section 1003(e).



## STATE AND LOCAL REPORT CARDS

## REQUIREMENT SUMMARY

Description: 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(h)

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 necessary to be included to carry out the requirements for any provision under Title I, Part A. In Ohio’s approved ESEA consolidated State plan, ODE indicates that it will use 15 as the minimum number of students necessary for accountability purposes and 10 as the minimum number of students necessary for reporting purposes. However, the Department found instances in ODE’s State and local report cards where the State was using a higher minimum number of 40, whereby it was not reporting certain required data elements with fewer than 40 students. For example, in the data downloads section of ODE’s report card website, ODE has suppressed data with fewer than 40 students in the “Building AMO Calculations 2020-2021” data file in the “AMO Participation” tab (i.e., displays “NC” and “<40”). Although the Department expects that SEAs and LEAs will adopt additional business rules to safeguard privacy of personally identifiable information about its students (e.g., “complementary suppression”), by using a higher minimum number of students for reporting certain required data elements, ODE’s current business rules are not consistent with its approved ESEA consolidated State plan.

The Department reviewed ODE’s State and local report cards for the 2020-2021 school year (SY), including some elements of report cards for earlier years (*i.e.*, SY 2018-2019), and found that ODE did not include all required information under ESEA section 1111(h)(1-2). Specifically, report cards do not include the following:

- **ESEA sections 1111(b)(2)(B)(xi), 1111(h)(1)(C)(ii) and (h)(2)(C)** – Student achievement data (*i.e.*, the number and percentage of students at each level of achievement on the State mathematics, reading/language arts, and science assessments) for all students and disaggregated by each required subgroup.
  - For SY 2020-2021, ODE reported the percentages for student achievement data of all students and disaggregated by all required subgroups. However, for its local report cards, this data must also include the number, in addition to the percentage, of students at each level of achievement, for all students and disaggregated by all required subgroups.
- **ESEA section 1111(h)(1)(C)(iii)(I)** – information on the performance on the other academic indicator under subsection (c)(4)(B)(ii) for public elementary schools and secondary schools that

are not high schools, used by the State in the State accountability system for all students and disaggregated by each of the subgroups of students.

- For SY 2020-2021, ODE’s advanced reports reported information on the value-added growth indicator, disaggregated by the lowest-performing 20 percent, high mobility, children with disabilities, gifted, and overall. On ODE’s State and local report cards from the 2018-2019 school year, when accountability determinations were last required to be calculated, ODE was missing this information for major racial and ethnic groups, economically disadvantaged, and English learners.
- **34 C.F.R. section 200.6(h)(5)(iii)** – Number and percentage of recently arrived English learners exempted from one administration of the reading/language arts assessments or whose results are excluded from certain State accountability system indicators.
  - In the District details for LEA/school report cards, this information is worded as “Number of Limited English Proficiency Students Excluded from Accountability Calculations.” For SY 2018-2019, this information was not posted on ODE’s State report card.
- **ESEA section 1111(h)(1)(C)(viii), (h)(1)(D)** – CRDC data disaggregated by subgroups, including information on rates of the following: in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (including both excused and unexcused absences), and incidents of violence, including bullying and harassment. State and local report cards must also use CRDC data to report the number of students enrolled in preschool programs. The ESEA requires data to be disaggregated for all required subgroups for each CRDC element mentioned above.
  - ODE reported CRDC data disaggregated by required subgroups for chronic absenteeism (including both excused and unexcused absences), incidents of violence, including bullying and harassment, and the number of students enrolled in preschool programs. For SY 2020-2021, data for school-related arrests and referrals to law enforcement were not posted.
- **ESEA sections 1111(h)(1)(C)(xi) and (h)(2)(C)** – Extent of use of the alternate assessment aligned with alternate academic achievement standards (AA-AAAS) for students with the most significant cognitive disabilities (*i.e.*, number and percentage of students assessed on AAAA-AS, by grade and subject).
  - ODE reported the percentage and number of students participating in ODE’s Alternate Assessment (AA-SCD). However, this information only reported overall percentages for LEAs and schools and did not include the percentage of students with the most significant cognitive disabilities who take an AA-AAAS, by grade and subject.
- **ESEA sections 1111(h)(1)(C)(xii)** - Results on the State academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress (NAEP)

carried out under section 303(b)(3) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622(b)(3)), compared to the national average of such results.

- ODE’s NAEP webpage includes information for Ohio’s most recent NAEP results for the 2019 school year, as well as results for previous school years. However, ODE’s State and LEA report cards did not report this data for SY 2020-2021.
- **ESEA section 1003(i)**- List of all the LEAs and schools that received section 1003 school improvement funds, including the amount of funds each school received and the types of strategies implemented in each school with such funds.
  - ODE’s School Improvement Grants webpage includes information that links to a list of LEAs and schools that received section 1003 school improvement funds, including the amount of funds each school received. However, for SY 2020-2021, this information was not posted on State and local report cards. The information that was posted on the School Improvement Grants webpage did not include the types of strategies implemented in each school with such funds.

For SY 2018-2019, ODE did not include all elements that are required in the clear and concise description of the State’s accountability system, consistent with requirements in section 1111(h)(1)(C)(i) and (h)(2)(C) of the ESEA, including the minimum number of students that the State determines are necessary to be included in each of the subgroups of students, the long-term goals and measurements of interim progress for all students and each subgroup of students, and the exit criteria established by the State. The Department recognizes that ODE makes some of this information, such as the exit criteria, available on other parts of its State website.

In addition, ODE’s report card website integrates Google’s Translate feature to assist in making report cards accessible in a wide variety of languages outside of English. This function works throughout different webpages that display report card information. However, due to the format of the State report card (*i.e.*, a PDF document), the State report card is only accessible in English. Furthermore, although the local report cards may be accessed from a mobile device, the Google translate functions do not appear to be available for both the State and local report cards. Consistent with requirements under Title VI of the Civil Rights Act of 1964, ODE must ensure meaningful access to national origin minority parents who have limited English proficiency by producing, to the extent practicable, versions of its State and local report cards in other languages or by supporting local translations of some report card information.

Finally, in its updated Technical Document on Expenditure Rankings and Expenditure Per Pupil Calculations for School Year 2019-20 and on its Expenditure Per Pupil Ranking webpage, ODE describes using two different methodologies to calculate per-pupil expenditures: (1) expenditures per pupil (EPP), which uses average daily membership as the denominator, and (2) expenditures per equivalent pupil (EPEP), which uses weighted average daily membership as the denominator.<sup>2</sup> To calculate the weighted average daily membership used in the EPEP calculations, ODE indicates that “harder-to-serve” students (*i.e.*, economically disadvantaged students, English learners, and students with disabilities) are given a higher weight in the calculation. Accordingly, schools serving “harder-to-

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<sup>2</sup> Technical Guidance Document on Expenditure Rankings and Expenditure Per Pupil Calculations for School Year 2019-20: <https://education.ohio.gov/getattachment/Topics/Data/Report-Card-Resources/Sections/District-Details/Technical-Guidance-Finance.pdf.aspx?lang=en-US>  
 Expenditure Per Pupil Ranking webpage: <https://education.ohio.gov/Topics/Finance-and-Funding/Finance-Related-Data/Expenditure-and-Revenue/Expenditure-Per-Pupil-Rankings>

serve” students will have greater weighted average daily memberships than unweighted average daily memberships and, thus, the expenditures per equivalent pupil reported will be less than the expenditures per pupil reported. In its Technical Document, ODE further explains that this decision to report EPEP was due to State legislation and how it reports existing finance data on a weighted per pupil basis. The Department appreciates that the intent is to account for additional resources necessary to provide a high-quality education for economically disadvantaged students, English learners, and students with disabilities. Although ODE reports both EPEP and EPP data through the spreadsheets available for download, it only reports the EPEP, or per-pupil expenditure calculations using weighted average daily membership, on its webpages for each State and local report card.<sup>3</sup>

ESEA section 1111(h)(1)(C)(x) and (2)(C) requires the State to report per-pupil expenditures of Federal, State, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of Federal, State, and local funds disaggregated by source of funds, for each LEA and school in the State for the preceding fiscal year on State and local report cards. As noted in the Department’s guidance, a State has discretion in establishing uniform statewide procedures for calculating per-pupil expenditures and determining a student count procedure (e.g., membership with a fall count date, averaged count of students in attendance over the school year, membership count with multiple count dates).<sup>4</sup> However, ODE would not be meeting this ESEA requirement by solely reporting EPEP because its procedures to establish the denominator is not a pupil count, but rather weights some pupils more heavily than others (e.g., a student with a disability category six is weighted over five times more heavily than a student that is not in one of the student subgroups noted here) . The Department considers ODE’s reporting of EPEP to be additional information that the State has decided to provide consistent with ESEA section 1111(h)(1)(C)(xiv).

## **REQUIRED ACTION**

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

- Evidence (e.g., providing links to published report cards, screenshots, etc.) that its State and local report cards for the 2020-2021 school year include all required assessment reporting elements, including the number of students at each level of achievement, for all students and disaggregated by all required subgroups and the percentage of students with the most significant cognitive disabilities who take an AA-AAAS, by grade and subject.
- Evidence that it translates, to the extent practicable (e.g., if it is not practicable to provide a written translation, it should be provided orally to a family member upon request), the State and local report card in the languages spoken by the major language groups served by the SEA and LEA and distributes the translated copies to parents who have limited English proficiency.
- Revised business rules that ODE will use to apply its minimum number of students necessary for reporting, as well as evidence that ODE has applied these revised business rules to update its 2020-2021 report cards.

After publication of report cards for the 2021-2022 school year in fall 2022, ODE must provide:

- Evidence (e.g., providing links to published report cards, screenshots, etc.) that its State and local report cards for the 2021-2022 school year include all required report card elements, including disaggregated data for the Other Academic indicator for elementary and secondary schools that

<sup>3</sup> <https://reportcard.education.ohio.gov/download>

<sup>4</sup> <https://oese.ed.gov/files/2020/07/report-card-guidance-final.pdf>

are not high schools for all required subgroups and the information required in the description of the State's accountability system.

## **RECOMMENDATION**

Currently, ODE provides annual 'Title I' spreadsheets that meet many of the report card requirements in ESEA section 1111(h). However, a user must navigate to the Report Card Download Files webpage, a part of ODE's official report card and accountability system, and filter the many available reports to find and access this spreadsheet. In order to ensure that the required information is easily accessible to the public, the Department recommends that ODE present all the required information on the individual webpages for State and local report cards alongside the other publicly reported information. If that is not possible, the Department recommends including a link to this existing spreadsheet from its State and local report cards. The Department also recommends that ODE include the web address, URL, or a direct link to the State plan (or another location where the accountability system is described) to meet the reporting requirement for a description of the State accountability system.

As described above, ODE currently only reports expenditures per equivalent pupil (i.e., based on weighted average daily membership count) on the webpages for its State and local report cards and reports expenditures per pupil (i.e., based on an unweighted average daily membership count) through downloadable spreadsheets. In order to ensure that the required per-pupil expenditure information is easily accessible to the public, the Department recommends that ODE report expenditures per pupil alongside of the currently available expenditure per equivalent pupil information on its State and local report card webpages.

## DIRECT STUDENT SERVICES

## REQUIREMENT SUMMARY

Description: An SEA may reserve up to 3 percent of its Title I, Part A funds to allocate to LEAs to provide direct student services. In allocating the funds to LEAs, an SEA must prioritize LEAs that have the highest percentage of schools identified for comprehensive or targeted support and improvement from diverse geographical locations within the State.

ESEA § 1003(A)

### ISSUE

ODE reserves funds under ESEA section 1003(A) for its Expanding Opportunity for Each Child grants. ESEA section 1003A(d) requires, if the SEA reserves funds under the reservation, that the application for 1003A funds for direct student services (DSS) includes, at minimum, a description of seven components described in section 1003A(d)(1)-(7). The Ohio Comprehensive Continuous Improvement Plan (CCIP) application for DSS included all the required elements from section 1003A(d)(1)-(7) as assurances but only requires descriptions for the components in 1003A(d)(1)-(5). The application must require a description of how the LEA will:

- Monitor the provision of direct student services; and
- Publicly report the results of direct student service providers in improving relevant student outcomes in a manner that is accessible to parents.

ESEA section 1003A(e)(4) requires that an SEA that reserves funds for DSS “develop and implement procedures for monitoring the quality of services provided by direct student service providers.” Currently, ODE has four questions in the annual monitoring self-survey on DSS, none of which not address the quality of services provided. ODE shared that it is developing specific questions to monitor ESEA section 1003A funding for DSS.

ESEA section 1003A(e)(2) requires that an SEA that reserves funds for DSS “compile and maintain an updated list of State-approved high-quality academic tutoring providers that—

- (A) is developed using a fair negotiation and rigorous selection and approval process;
- (B) provides parents with meaningful choices;
- (C) offers a range of tutoring models, including online and on campus; and
- (D) includes only providers that—
  - (i) have a demonstrated record of success in increasing students’ academic achievement;
  - (ii) comply with all applicable Federal, State, and local health, safety, and civil rights laws; and
  - (iii) provide instruction and content that is secular, neutral, and non-ideological.”

ODE stated that it is developing a system to create and maintain the required list in its self-assessment and during the virtual desk review. ODE also shared that, at the time of the desk review, it had not yet created this list. ODE shared that it chose not to include tutoring services as an allowable use for 1003A grant opportunities and would develop the required list if ODE should add the option to use 1003A funds for tutoring services in the future. However, ESEA section 1003A(c)(3) allows the LEA receiving

an award under 1003A to determine uses of funds. An SEA may prioritize allowable uses for 1003A funds but may not prohibit an LEA from perusing one or more allowable uses.

Finally, ESEA section 1003A(e)(5) requires that an SEA “establish and implement clear criteria describing the course of action for DSS providers that are not successful in improving student academic outcomes, which, for a high-quality academic tutoring provider, may include a process to remove State approval under paragraph (2).” ODE shared that most providers are the LEAs themselves and the LEAs are expected to maintain high quality services. ODE also shared that it is developing a system for removing unsuccessful tutoring providers from the state approved list of high-quality academic providers. ESEA section 1003A(e)(5) requires these processes for all direct student service providers, including LEAs. Currently, ODE does not have clear criteria and processes for DSS providers that are not successful in improving student academic outcomes, including a process to remove tutoring providers from the State-approved list.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, ODE must submit to the Department:

- Revised Expanding Opportunity for Each Child Grant application template for 1003A funds reserved for Direct Student Services that includes descriptions for all required application elements from section 1003A(d).
- Updated monitoring protocol that meets all requirements of 1003A(e)(4) for an SEA reserving 1003A funds for direct student services to “develop and implement procedures for monitoring the quality of services provided by direct student service providers”.
- A plan and a timeline for how the State will meet all requirements of 1003A(e)(2) to allow LEAs to use DSS funds for allowable tutoring services, and evidence that all requirements of 1003A(e)(2) are met once the plan is implemented.
- Procedural documents that show how ODE “establish[ed] and implement[s] clear criteria describing the course of action for direct student service providers that are not successful in improving student academic outcomes, which, for a high-quality academic tutoring provider, may include a process to remove State approval” as required in ESEA section 1003A(e)(5).

## OTHER TITLE I REQUIREMENTS

## REQUIREMENT SUMMARY

**Description:** 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

ESEA section 1111(g)(1)(B) requires that a State plan describe how low-income and minority children enrolled Title I schools are not served at disproportionate rates by ineffective, out-of-field, and inexperienced teachers, and the measures the State will use to evaluate and publicly report the progress of the State with respect to such description. Currently, ODE publicly reports the disaggregation of out-of-field, alternative certification, and inexperienced teachers by poverty quartiles on State and local report cards as required under 1111(h). ODE does not publicly report 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. Please note that the SEA is *not* required to report this progress on State and local report cards, though that is one way to meet this requirement.

Further, ESEA section 1112(b)(2) requires each LEA receiving Title I, Part A subgrant to “identify and address, as required under State plans as described in section 1111(g)(1)(B), 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.” Currently, ODE requires all LEAs receiving Title I, Part A funds to submit local equity access plans (LEAPs) to identify and address gaps in equitable access of excellent educators for ‘poor’ and ‘minority’ students in all buildings. However, it is unclear how these plans specifically address any disparities for low-income and minority children in *Title I* schools. While LEAPs do require LEAs to consider all schools in their required review of gaps, the methodology shared in the “Resource Guide for Local Equitable Access Plan” allows LEAs to select the most concerning gap(s) for the LEA or a select school and does not require that an LEA address any disproportionate rates of access to ineffective, inexperienced, or out-of-field teachers for students in Title I schools in the LEAPs as required in ESEA section 1112(b)(2).

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit to the Department:

- A timeline and plan for evaluating and publicly reporting progress in 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 under ESEA section 1111(g)(1)(B).
- Evidence that ODE requires LEAs to identify and address any disproportionate rates of access to ineffective, out-of-field, and inexperienced teachers for low-income and minority students in Title I schools. This could be accomplished through an update to the LEAP template to clarify



and include how the LEA analysis includes Title I schools in all elements required by ESEA section 1112(b)(2). For example, the LEAP template could require an LEA to compare Title I schools to non-Title I schools or require the LEA look within Title I schools to ensure the LEA addresses identified gaps in Title I schools.

## Title I, Part C

### IDENTIFICATION AND RECRUITMENT (ID&R) – QUALITY CONTROL

### REQUIREMENT SUMMARY

Description: Under sections 1304(c)(8) and 1309(2) of the statute, the SEA is responsible for the proper and timely identification of all eligible migrant children residing in the State. The State must maintain documentation of eligibility determinations to demonstrate that the SEA served only those children who met the definition of a migratory child in section 1309(2) of the statute and in 34 C.F.R. §200.81 and implement procedures to ensure the accuracy of those eligibility determinations as well as establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children.

ESEA §§ 1304(c)(8); 1309(2)

EDGAR 34 C.F.R. §§ 200.81; 200.89(d)

### ISSUE

During its review of a random sampling of the ID&R Center’s approved Certificates of Eligibility (COEs), the Office of Migrant Education (OME) found that two COEs were missing one of the two required comments regarding the recruiter’s determination that the worker actively sought qualifying work soon after the move. Consistent with the National COE instructions, recruiters must note in the Comments Section of the COE when and how the individual actively sought qualifying work. The information includes the worker’s statement together with any additional information the recruiter chooses to add based on his or her knowledge of the area and type of work available. These comments are needed to allow COE reviewers and others to assess the reasonableness of the recruiter’s eligibility determination.

Through discussions with the Local Operating Agency’s (LOA’s) Statewide ID&R Manager, it was determined that they were unaware of the above requirement and that these necessary comments were missing from the two COEs. In the Ohio Department of Education’s (ODE’s) 2021 ID&R Manual, under instructions for completing Section 4, #4b, it states the following, “...the recruiter must document that: the worker actively sought new qualifying work; AND the worker has a recent history of moves for qualifying work.” Although the OH ID&R Manual instructs recruiters to include both required comments, the COEs reviewed only contained one of the two required comments.

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit to the Department:

- Its processes and procedures that ensure that every recruiter receives ID&R training that is consistent with the National COE instructions, specifically that recruiters must note in the Comments Section of the COE when and how the individual actively sought qualifying work.

The training must ensure that recruiters and all other staff involved in determining eligibility and in conducting quality control procedures know the requirements for accurately determining and documenting child eligibility under the Migrant Education Program (MEP).

- An updated ID&R Manual that clarifies that a recruiter must document both that the worker actively sought new qualifying work and the worker has a recent history of moves for qualifying work.

## MIGRANT STUDENT INFORMATION EXCHANGE (MSIX)

## REQUIREMENT SUMMARY

Description: An SEA that receives a grant of MEP funds must submit electronically to MSIX the MDEs applicable to the child's age and grade level. An SEA must collect and submit the MDEs applicable to the child's age and grade level, regardless of the type of school in which the child is enrolled (e.g., public, private, or home school), or whether a child is enrolled in any school.

EDGAR 34 C.F.R. § 200.85(d)

## ISSUE

OME's review of Minimum Data Elements (MDEs) submitted to MSIX by the SEA for the 2019-2020 Performance Period determined that several MDEs, appropriate for the age and grade levels for migratory children in Ohio, were missing, including: 90.6% of English Learner Indicator (MDE 43); 99.57% of IEP Indicator (MDE 44); 99.22% of Med Alert Indicator (MDE 46); 84.19% of [Priority for Services] PFS Flag (MDE 47); 100% of Designated Graduation School (MDE 48); 100% of Home School Indicator (MDE 69); and 93.9% of Algebra 1 or Equivalent indicator (MDE 76). These are MDEs that must be submitted within 10 days of approving a new Certificate of Eligibility (COE) and/or within 30 calendar days of the end of an LEA's or LOA's fall, spring, summer, or intersession terms. OME's expectation is not that all MDEs must not be 100% complete, but rather the SEA must submit these MDEs that are applicable to the age and grade levels of its migratory child population.

## REQUIRED ACTION

Within 60 business days of receiving this report, ODE:

- Must submit a Data Completeness Report (run within one month of submission to OME of its response to this report) that demonstrates progress in resolving its MDE completeness issues, identified in this report: English Learner Indicator (MDE 43), IEP Indicator (MDE 44), Medical Alert Indicator (46), PFS Flag (MDE 47), Designated Graduation School (MDE 48), Home School Indicator (MDE 69), and Algebra I or Equivalent Indicator (MDE 76).
- Must submit to OME a description of how ODE ensures that all missing MDEs, applicable to a child's age and grade level, including demographic, enrollment, course history, and assessment data, are submitted to MSIX using the correct file submission format, and that they are logical and valid.

## PERFORMANCE REPORTING

## REQUIREMENT SUMMARY

Description: Section 8303 of the statute requires the Secretary to establish procedures and criteria under which an SEA, in consultation with the Governor of the State, may submit a consolidated State annual report that contains information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities. Additionally, the Consolidated State Performance Report (CSPR) shall replace separate individual annual reports for the programs included in the consolidated State annual report.

ESEA § 8303(a)-(c)

## ISSUE

During the program review, ODE reported that in School Year (SY) 2020-2021 there were zero migratory children with disabilities (IDEA) under Part B or Part C of the IDEA. However, one of the School Districts reviewed reported to OME reviewers that in summer 2021, five of its 40 migratory students had a disability and, as such, should be coded as children with disabilities (IDEA). In a review of ODE's initial CSPR/EDFacts submission for File Specification (FS) 121, ODE reported zero migratory children with disabilities (IDEA). ODE also reported zero migratory children with disabilities (IDEA) for SY 2020-2021 in the Program Overview slides the SEA submitted as a part of this review.

## REQUIRED ACTION

Within 60 business days of receiving this report, ODE must provide evidence that it has:

- Accurately counted its migratory children with disabilities and identified them as such in its state migrant database and re-submit the updated counts during the EDFacts/CSPR second submission window which opens in March 2022.
- Created policies and procedures for ensuring that in future years migratory children with disabilities are accurately counted, served, and reported accurately each year in FS 121 of the CSPR.

## TITLE II, PART A

### LEA LEVEL USE OF FUNDS, A9, DEFINE "EFFECTIVE TEACHER" FOR CLASS SIZE REDUCTION

### REQUIREMENT SUMMARY

Description: 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); 2103(b)(3)(D); and 8101(42)

### ISSUE

ESEA section 2103(b)(3)(D) permits an LEA to use its Title II, Part A funds to reduce class size by recruiting and hiring effective teachers. This requirement presumes that LEAs will not use Title II, Part A 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. ODE provided no evidence that it ensures that teachers recruited or paid with Title II, Part A funds for purposes of class size reduction have been determined to be effective by the LEA before Title II, Part A funds are used. As a result, LEAs in Ohio are at risk of using program funds to pay ineffective class size reduction teachers, which would be an unallowable Title II, Part A expenditure.

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit to the Department a plan and a timeline for how the State will ensure that LEAs do not use Title II, Part A 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

ODE could address this requirement 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. ODE could then include a follow-up check on such an assurance as part of its subgrantee monitoring procedures.

## Title III, Part A

### SUPPLEMENT NOT SUPPLANT

### REQUIREMENT SUMMARY

Description: The State and its subgrantees must ensure that funds from the Title III, Part A program are used to supplement, not supplant State, local, and other Federal funds.

ESEA § 3115(g)

### ISSUE

ESEA section 3115(g) requires that Title III funds be used “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 English learners and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.” In general, it is presumed that supplanting has occurred if: 1) the SEA or LEA uses Title III funds to provide services that the SEA or LEA was required to make available under other laws; 2) the SEA or LEA uses Title III funds to provide services that the SEA or LEA provided with State, local, or other Federal funds in the prior year; or 3) the SEA or LEA uses Title III funds to provide services for participating children that the SEA or LEA provided with non-Federal funds for non-participating children.

ODE’s FY21 Consolidated Application Template states on page 53, “The description must explain how Title III-funded professional development is supplemental to the use of State and local funds, e.g., the PD has not been done before.” This statement is inaccurate, however, because Title III funds must also supplement *other Federal funds*. The Department notes, however, that some of the training material provided by ODE to the Department correctly note that Title III funds cannot supplant State, local or other Federal funds.

A few ODE tools and documents could benefit from further clarification to the Title III, Part A supplement, not supplant requirements. For example, ODE’s *OAASFEP Spring 2021 Family Engagement* training PowerPoint lists activities on slides 16 through 20 that are open to the parents of all students rather than only to the parents of ELs; as a result, Title III funds cannot be used for services offered to the general student population or their parents.

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit a corrected Consolidated Application Template to clearly state that Title III funds may not supplant other federal, State, or local funds.

### RECOMMENDATION

The Department recommends that ODE review all guidance and training materials for supplement, not supplant requirements to correct any inconsistencies regarding Title III, Part A supplement, not supplant requirements in its documents and tools.

## PARENT NOTIFICATION

## REQUIREMENT SUMMARY

Description: Each LEA that uses funds under either ESEA Title I or Title III to supplement its language instruction educational program (LIEP) must provide a parent of an English learner (EL) with notification that outlines their child's identification as an EL and placement in an LIEP. The ESEA requires that this notification be provided no later than 30 calendar days after the beginning of the school year or within the first two weeks of placement in an LIEP for a student who enrolls after the start of the school year.

ESEA §§ 1112(e)(3)(A)-(B)

## ISSUE

Per the requirements in ESEA sections 1112 (e)(3)(A) and (B), each LEA that uses funds under either ESEA Title I or Title III to supplement its language instruction educational program (LIEP) must provide a parent of an English learner (EL) with notification that outlines their child's identification as an EL and placement in an LIEP. The ESEA requires that this notification be provided no later than 30 calendar days after the beginning of the school year or within the first two weeks of placement in an LIEP for a student who enrolls after the start of the school year.

The ODE webpage [Guidelines for Identifying English Learners](#) states, "The school's process to notify parents of their child's English learner identification and eligibility for participation in the language development program should occur within 30 calendar days after the beginning of the district's school year. For other students identified as English learners entering during the school year, parents must receive notification of language instruction program eligibility within 45 days of the student's registration."

Per ESEA section 1112(e)(3)(B), for ELs enrolling during the school year, parents must receive notification within the first two weeks of the student's placement in an LIEP and not 45 days.

## REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit evidence that it has updated its website (and any related guidance, training, and monitoring documents and tools, as appropriate) to note that LEAs using funds under either ESEA Title I or Title III to supplement their LIEP are required to provide a parent of an EL with the notification required by ESEA sections 1112(e)(3)(A) no later than 30 calendar days after the beginning of the school year or within the first two weeks of placement in an LIEP for a student who enrolls after the start of the school year, consistent with ESEA section 1112(e)(3)(B).



## STANDARDIZED STATEWIDE ENTRANCE AND EXIT PROCEDURES, STUDENTS ENROLLING FROM ANOTHER STATE

## REQUIREMENT SUMMARY

Description: 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)

EDGAR 34 C.F.R. § 200.5(a)(2)

### ISSUE

Section 3113(b)(2) of the ESEA requires an SEA to “establish and implement...standardized, statewide entrance and exit procedures, including an assurance that all students who may be English learners [(ELs)] are assessed for such status within 30 days of enrollment in a school in the State...”

ODE’s webpage, [Administrator’s Guidance for English Learner Programs](#) states, “In cases of students who are transferring from other schools, the student’s English learner classification status should transfer with the student. This includes students who are transferring from schools in other States and U.S. territories and Department of Defense Education Activity schools.” During the monitoring interview, ODE confirmed that this is the current procedure in the State and that only those students transferring from another State with no official records or outdated records are assessed for EL status.

The criteria that are used to determine English language proficiency vary across States (see, for example, ESEA section 1111(c)(4)(B)(iv)). Therefore, a student identified as an EL in another State may in fact meet ODE’s criteria for English language proficiency. It would then be inappropriate for such a student who is proficient in English, per ODE’s definition of English language proficiency, to be placed in a LIEP in an Ohio LEA receiving funds under Title III.

### REQUIRED ACTION

Within 60 business days of receiving this report, ODE must submit evidence that it has updated its website (and any related guidance, training, and monitoring documents and tools, as appropriate) to require that students identified as ELs in another State who transfer to a school in Ohio be assessed for EL status, based on ODE’s definition of English language proficiency, within 30 days of enrollment in a school in the State.

As part of this assessment for EL status, ODE may consider assessment evidence from the previous State. For example, if the student’s prior year records from the previous State indicate the use of the same ELP assessment as in Ohio, then ODE may choose not to rescreen the student and simply apply ODE’s exit criteria to the student’s prior ELP assessment results.

## STANDARDIZED STATEWIDE ENTRANCE AND EXIT PROCEDURES, ENTRANCE PROCEDURES

## REQUIREMENT SUMMARY

Description: 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

Section 3113(b)(2) of the ESEA requires an SEA to “establish and implement...standardized, statewide entrance and exit procedures, including an assurance that all students who may be English learners [(ELs)] are assessed for such status within 30 days of enrollment in a school in the State...”

#### Assessing Potential ELs

ODE’s standardized, statewide entrance procedures do not comply with the ESEA section 3113(b)(2) requirement to assess potential ELs within 30 days of enrollment in a school in the State. Instead of requiring this assessment to be completed within 30 days of *enrollment* in a school, ODE’s entrance procedures require the assessment to be completed within 30 days of the *beginning of each school year*. Examples of ODE documents that include this language are:

- Slide 6 of [Ohio English Language Proficiency Screener](#) (accessed from [Ohio English Language Proficiency Screener \(OELPS\) | Ohio Department of Education](#));
- Webpage [Guidelines for Identifying English Learners | Ohio Department of Education](#); and
- Slide 7 of *E12a. OAASFEP\_Fall 2021\_ Title III\_ELS\_SLIFE discussion\_Oct2021*, which was provided to the Department as a follow-up document.

Pursuant to ESEA section 3113(b), the LEA must assess the student for EL status within 30 days of their enrollment, not the start of the school year.

In addition, the ODE sub-recipient monitoring tool does not demonstrate that it ensures compliance with the 30-day assessment requirement in ESEA section 3113(b)(2).

ODE provided as evidence to the Department the FY 2021 Consolidated ESEA Self Survey monitoring tool, which in the Title III section question 9, on page 16, has the title, “Reference: Section: ESEA§1112(e)(3)(A-B) Assessed Within 30 Days.” The information collected for this question of the self-survey monitoring tool is in fact related to the ESEA sections 1112(e)(3)(A-B) parent notification requirements.

Because the requirement for parental notification is different from the requirement to assess within 30 days, ODE's monitoring tool contains no mechanism to ensure Ohio LEAs are in compliance with the requirements to assess potential ELs within 30 days of enrollment in a school in the State, per ESEA section 3113(b)(2).

### **Criteria for Identifying ELs**

During the monitoring interview, ODE indicated that it made a change to its standardized, statewide entrance procedures starting in school year 2021-22, whereby students who enroll in kindergarten between the start of the school year and December and score below 3 on the Ohio English language proficiency screener (OELPS) are identified as ELs.

While most of ODE's documents and tools reflect this new policy, a few still refer to the previous standardized, statewide entrance procedures. The Department acknowledges that making the necessary updates to ODE's documents and tools to reflect the recent changes to the standardized, statewide entrance procedures is a work in progress.

For example, the ODE webpage for the OELPS already reflects this change but the translated parent notification templates, [Translated Individual Student Reports for OELPS Results](#), still reflect the previous cut scores for proficiency for all kindergartners.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, ODE must submit evidence that it has updated its guidance, monitoring, and training documents and tools, as appropriate, to comply with the requirement in ESEA section 3113(b)(2) that all students who may be ELs are assessed for such status within 30 calendar days of enrollment in a school in the State.

### **RECOMMENDATION**

The Department recommends that ODE continue making the needed changes to its documents and training tools to reflect the changes made to its standardized, statewide entrance procedures that went into effect for school year 2021-22. In particular, the Department recommends that ODE update its translated parent notification letter templates as soon as possible to reflect the change.

## Met Requirements with Recommendation

### Financial Management & Cross Cutting

#### RECORDS AND INFORMATION MANAGEMENT

#### REQUIREMENT SUMMARY

Description: An SEA shall keep records that fully show the amount of funds under a grant award or subgrant, how the SEA used the funds, the total costs of Federally supported projects, the share of costs provided from other sources, records to show compliance with program requirements, and any other records needed to facilitate an effective audit. An SEA shall also take reasonable measures to safeguard and protect personally identifiable information (PII). PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

Uniform Guidance 2 C.F.R. §§ 200.79, 200.303(e), 200.334, 200.336(a)

EDGAR 34 C.F.R. § 76.730-731

#### ISSUE

An SEA shall keep records that fully show the amount of funds under a grant award or subgrant, how the SEA used the funds, the total costs of Federally supported projects, the share of costs provided from other sources, records to show compliance with program requirements, and any other records needed to facilitate an effective audit. An SEA shall also take reasonable measures to safeguard and protect personally identifiable information (PII). PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual (2 C.F.R. section 200.79).

Some LEAs the Department met with were unable to provide evidence of policies and procedures that protect and safeguard PII. Additionally, both ODE and the LEAs the Department met with were unable to provide examples of ODE providing LEAs with training on protecting and safeguarding PII.

#### RECOMMENDATION

The Department recommends that ODE provide trainings and/or technical assistance to its LEAs to ensure that have sufficient policies and procedures in place to protect and safeguard personally identifiable information. Additionally, ODE should include a review of LEA policies and procedures related to protection of PII in its subrecipient monitoring.

# CROSS-CUTTING FINANCIAL AND PROGRAMMATIC

## SUBRECIPIENT MONITORING

## REQUIREMENT SUMMARY

Description: An SEA shall monitor LEAs and any other entities, including external providers, receiving federal funds from programs to ensure that all applicable fiscal and programmatic performance goals are achieved and that subawards are used for authorized purposes and in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

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

## ISSUE

ODE provided documentation outlining a post-award monitoring process that includes self-assessment, desk reviews, and on-site reviews. Prior to the review, ODE provided samples of programmatic monitoring tools along with samples of notification letters. ODE's documentation and information provided during the review described the processes used for each type of subrecipient monitoring, which aligned with the Uniform Guidance. However, during the LEA portion of the review, LEAs indicated that there was a lack of meaningful follow-up from ODE.

Therefore, although ODE has a clear monitoring process in place, the monitoring process could be enhanced by consistently following up after the review takes place, providing technical assistance, and ensuring LEAs are aware of the post-monitoring review process.

## RECOMMENDATION

The Department recommends that ODE enhance its technical assistance to LEAs to include more follow up with the LEAs and provide webinars or other information on the post-monitoring review process.

## Title I, Part C

### IDENTIFICATION AND RECRUITMENT (ID&R)

### REQUIREMENT SUMMARY

Description: Under sections 1304(c)(8) and 1309(2) of the statute, the SEA is responsible for the proper and timely identification of all eligible migrant children residing in the State. The State must maintain documentation of eligibility determinations to demonstrate that the SEA served only those children who met the definition of a migratory child in section 1309(2) of the statute and in 34 C.F.R. §200.81 that its system of quality controls must include training to ensure that recruiters and all other staff involved in determining eligibility and in conducting quality control procedures know the requirements for accurately determining and documenting child eligibility under the MEP. Under 34 C.F.R. §200.89, the State Education Agency (SEA) is required to accurately document every migratory child's eligibility for the Migrant Education Program (MEP) on the national Certificate of Eligibility (COE) created by the U.S. Department of Education (ED). The COE serves as the official record of the State's eligibility determination for each individual child. A child must have an SEA-approved COE before MEP services may be provided.

ESEA §§ 1304(c)(8); 1309(2)

EDGAR 34 C.F.R. §§ 200.81; 200.89(d)

### ISSUE

During its review of a random sampling of the ID&R Center's Certificates of Eligibility (COEs), OME found none of the COEs from 2020 or later had been signed by the interviewee, but rather that all had been signed on behalf of the interviewee by the recruiter. Under the National COE Instructions, the interviewee signs and dates the COE on the day the interview is conducted. The interviewee must also write his or her relationship to the child. The person who signs the COE must be the source of the information contained in the document and should verify any information provided by another source. If the interviewee is unable to sign his or her name, he or she must mark an "X" in the signature section and the recruiter must print the interviewee's name and relationship to the child in the Comments section. If the interviewee refuses to sign his or her name, the recruiter must document the interviewee's refusal in the Comments section and print the interviewee's name and relationship to the child. Although OME's May 2020 *Fact Sheet: Addressing the Risk of COVID-19 While Serving Migratory Children* states that SEAs may implement several flexibilities during the COVID-19 pandemic; one of which is that an interviewee signature may not be required to approve a Certificate of Eligibility (COE) in which the interview was conducted remotely, it is the State's responsibility to clearly communicate pandemic-related ID&R guidance to recruiters via training and/or via its Statewide ID&R manual.

Through discussions with the LOA's Statewide ID&R Manager, it was determined that ODE had not released updated written policies, procedures, or guidance related to recruiters performing remote recruitment activities during the on-going COVID-19 pandemic or for transition back to in-person recruitment activities.

### **RECOMMENDATION**

The Department recommends to ODE that it updates written policies, procedures, and/or training related to recruiters performing recruitment activities. As the COVID-19 pandemic environment continues to change, so too should MEP recruitment practices. While remote interviews and re-interviews are still allowable, there may be some areas of your State where it is considered safe to resume some forms of in-person recruitment, with appropriate health precautions in place as needed. Proper procedures should be clearly outlined in written policies/procedures and training so that recruiters are aware of requirements regarding COE completion while conducting interviews remotely versus in-person.

## Title II, Part A

### SUPPLEMENT NOT SUPPLANT

### REQUIREMENT SUMMARY

Description: The State and its subgrantees must ensure that funds from the Title I, Part A, Title II, Part A and Title III, Part A programs are used to supplement not supplant State and local funds (as well as other Federal funds for the Title III, Part A program).

ESEA §§ 1114(a)(2)(B), 1118(b), 2301, and 3115(g)

### ISSUE

Slide 8 of the training PowerPoint provided as documentation subsequent to the monitoring visit indicates that, for Federal programs in Titles II-IV, one supposition of supplanting is that “Services that are *required* under other federal, state or local laws.” For Title II, Part A, this is incorrect: “supplement, not supplant” provisions in section 2301 apply only to State and local funds, not to other Federal funds.

### RECOMMENDATION

The Department recommends that ODE correct this error in its training materials.



## Title V, Part B, Subpart 2

### SUBGRANTEE USE OF RLIS FUNDS

### REQUIREMENT SUMMARY

Description: All uses of RLIS funds must comply with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements* (2 C.F.R. Part 200), which include, among other things, the requirement that costs be reasonable and necessary for the accomplishment of program objectives. RLIS subrecipient LEAs may use their grant funds for allowable activities under any of the following:

- Title I-A
- Title II-A
- Title III
- Title IV-A
- Parental involvement activities.

ESEA § 5222(a)  
Uniform Guidance 2 C.F.R. Part 200, Subpart E

#### ISSUE 1

ODE's consolidated grant application requires an LEA applying for RLIS funds to indicate how the LEA intends to spend the funds in accordance with ESEA section 5222(a). Additionally, under ESEA section 5232, the SEA is required to ensure that an LEA use its RLIS funds to supplement, and not supplant, any other Federal, State, or local education funds. The SEA does not currently request any information for the RLIS supplement not supplant requirement in its consolidated application.

#### RECOMMENDATION 1

To help ODE ensure that an LEA applying for RLIS funds will use the RLIS funds only to supplement and not supplant any other Federal, State, or local education funds, the Department recommends that ODE update its consolidated application so that an LEA is asked to ensure that any proposed use of RLIS funds will supplement, and not supplant, any other Federal, State, or local education funds.

#### ISSUE 2

ODE's current webpage and supporting PDF contain references to an outdated SRSA application process (Grants.gov). Presently, the SRSA application is housed on the Office of Management and Budget's (OMB) MAX Survey platform and a step-by-step overview of the process can be found on the SRSA Applicant Information webpage. Additionally, ODE's current webpage and supporting PDF contain links to the Department's old web platform (www2.ed.gov). The Department has migrated away from this platform and REAP-specific information can now be found on the oese.ed.gov platform by visiting the main REAP webpage.

**RECOMMENDATION 2**

To ensure that ODE is sharing accurate information regarding REAP practices with LEAs in the State, the Department recommends that ODE update its online content relating to the REAP, SRSA, and RLIS programs.