

# Maine Consolidated Performance Review Report FY 2023

<b>Commendations</b>	<b>1</b>
<b>Met Requirements</b>	<b>28</b>
<b>Recommendations</b>	<b>8</b>
<b>Action Required</b>	<b>36</b>

*Final Report*  
*9/28/2023*



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

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## GENERAL INFORMATION

### 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 aid 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 SEAs and encourage SEAs to develop and effectively implement integrated and coherent consolidated SEA plans. To accomplish these goals, the consolidated performance review process is organized into crosscutting 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 Maine Department of Education (MDOE) that occurred on May 22-26, 2023. The review covered:

- Financial Management and Crosscutting;
- School Support and Accountability (SSA) Crosscutting Financial and Programmatic;
- 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 V, Part B, Subpart 2 of the ESEA, Rural and Low-Income Schools; and
- Elementary and Secondary School Emergency Relief Fund (ESSER I, II, & ARP ESSER)

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 crosscutting 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 SEA. Section II is a summary of the SEA's performance on each indicator reviewed for each covered program. For each indicator, the Department assigns one of four ratings: (1) Met Requirements with Commendation indicates high-quality implementation where the grantee is exceeding expectations; (2) Met Requirements indicates that no instances of noncompliance were identified; (3) 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 (4) Action Required indicates there are significant compliance or quality concerns that require attention by the SEA and will be revisited until the SEA has remedied the issue.

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

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

Section V identifies those areas where the Department has quality implementation concerns related to grant administration and fiscal management (i.e., those areas categorized as quality concerns, “met requirements with recommendations”). In these instances, the Department is determining that the SEA 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 SEA 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 V, Part B, Subpart 2; ESSER; and EANS

#

\$

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

Title I, Part A	\$ 59,492,429 <sup>2</sup>
Title I, Part B	\$ 3,719,417 <sup>3</sup>
Title I, Part C	\$ 708,406 <sup>4</sup>
Title II, Part A	\$ 10,671,833 <sup>5</sup>
Title III, Part A	\$ 945,276 <sup>6</sup>
Title V, Part B, Subpart 2	\$ 1,058,735 <sup>7</sup>
ESSER I	\$ 43,793,319 <sup>8</sup>
ESSER II	\$ 183,138,601 <sup>9</sup>
ARP ESSER	\$ 411,429,361 <sup>10</sup>

### Dates of Review

SEA: May 22-26, 2023

Subrecipients: May 25, 2023 – June 1, 2023

<sup>1</sup> FY 2022 funds (<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.

<sup>2</sup> <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/title-i-part-a-program/funding-status/>

<sup>3</sup> <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/grants-for-state-assessments/funding-status/>

<sup>4</sup> <https://www2.ed.gov/about/overview/budget/statetables/24stbyprogram.pdf>

<sup>5</sup> <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/instruction-state-grants-title-ii-part-a/funding-status/>

<sup>6</sup> <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/english-language-acquisition-state-grants/funding-status/>

<sup>7</sup> <https://www2.ed.gov/about/overview/budget/statetables/24stbyprogram.pdf>

<sup>8</sup> <https://oese.ed.gov/files/2020/04/ESSER-Fund-State-Allocations-Table.pdf>

<sup>9</sup> [https://oese.ed.gov/files/2021/01/Final\\_ESSERII\\_Methodology\\_Table\\_1.5.21.pdf](https://oese.ed.gov/files/2021/01/Final_ESSERII_Methodology_Table_1.5.21.pdf)

<sup>10</sup> [https://oese.ed.gov/files/2021/06/Revised-ARP-ESSER-Methodology-and-Allocation-Table\\_6.25.21\\_FINAL.pdf](https://oese.ed.gov/files/2021/06/Revised-ARP-ESSER-Methodology-and-Allocation-Table_6.25.21_FINAL.pdf)

## ED Reviewers

Artrice Hardin (Management Support Office)  
 Jameel Scott (Management Support Office)  
 Deborah Spitz (Office of School Support and Accountability)  
 Elizabeth Witt (Office of School Support and Accountability)  
 Mary Frances Street (Office of School Support and Accountability)  
 Collette Roney (Office of School Support and Accountability)  
 Scott Richardson (Office of School Support and Accountability)  
 Fariba Hamedani (Office of School Support and Accountability)  
 Bryan Thurmond (Office of School Support and Accountability)  
 Leticia Braga (Office of School Support and Accountability)  
 Michael Meltzer (Office of Migrant Education)  
 Preeti Choudhary (Office of Migrant Education)  
 Staci Cummins (Office of Rural, Insular & Native Achievement Programs)  
 Justin Tabor (Office of Rural, Insular & Native Achievement Programs)  
 Virginia Ceesay (Office of State and Grantee Relations)  
 Sandra Deysson (Office of State and Grantee Relations)  
 Christopher Tate (Office of State and Grantee Relations)

## Subrecipients Participating in the Desk Review

Augusta School Department  
 Lewiston Public Schools  
 Mano en Mano

## Current Grant Conditions

Title I, Part A	MDOE has three conditions on its Title I grant award. The first is related to the State's academic content assessments and the second is related to the State's English language proficiency assessments. The third condition is related to the State's failure to adopt criterion-referenced academic achievement standards, for which MDOE's Title I grant has also been placed on high-risk status.
Title I, Part C	None
Title II, Part A	None
Title III, Part A	None
Title V, Part B	None
ESSER	Conditions 1-7, 11, 12 and 15 are related to allocations and period of availability for ESSER funds. Condition 8 relates to allowable uses. Conditions 9 and 10 relate to SEA assurances to meet the maintenance of effort and maintenance of equity requirements, respectively. Conditions 13 and 14 outline reporting requirements.

MDOE also has 5 assurances and certifications. Assurance 1 relates to compliance with OMB Standard Forms 424B and D. Assurance 2 relates to restrictions and disclosures regarding lobbying. Assurances 3 and 4 relate to the General Education Provisions Act (GEPA). Assurance 5 relates to Uniform Guidance. There are also considerations for grant funds spent on conferences and meetings. Finally, there are cash management requirements and FAQs for grantees and subgrantees.



**SECTION II**

# Summary Status of Fiscal & Program Monitoring Indicators

**STATUS KEY**



**Met Requirements with Commendation**

High quality implementation & compliance#



**Met Requirements**

No instances of noncompliance identified



**Met Requirements with Recommendation**

Satisfactory compliance with quality concerns



**Action Required**

Significant compliance & quality concerns

**FINANCIAL MANAGEMENT & CROSSCUTTING**

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	● ● ● ● ○
Local Applications and Plans	● ● ● ● ○
Risk Assessment	● ● ● ● ○
Subrecipient Monitoring	● ○ ○ ○ ○

**SSA CROSSCUTTING FINANCIAL AND PROGRAMMATIC**

Topic	Status
Allocations #1	● ○ ○ ○ ○
Allocations #2	● ○ ○ ○ ○
Allocations #3	● ○ ○ ○ ○
Allocations #4	● ● ● ● ○
Maintenance of Effort	● ○ ○ ○ ○

Equitable Services	● ○ ○ ○
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### TITLE I, PART A & TITLE I, PART B

Topic	Status
State Assessment Requirements	● ○ ○ ○
Statewide Accountability System	● ○ ○ ○
Identification of Schools	● ○ ○ ○
Support for School Improvement	● ○ ○ ○
1003 School Improvement	● ○ ○ ○
State and Local Report Cards	● ○ ○ ○
Schoolwide Programs	● ○ ○ ○
Targeted Assistance Programs	● ○ ○ ○
Parent and Family Engagement	● ○ ○ ○
Direct Student Services	● ● ● ○
Optional Public-School Transfer	● ● ● ○
Title I-Specific Fiscal Requirements	● ● ● ○
Educational Stability for Students in Foster Care – SEA Collaboration with Child Welfare Agency	● ● ● ○
Educational Stability for Students in Foster Care – Best Interest Determinations	● ● ● ○
Educational Stability for Students in Foster Care – Immediate Enrollment	● ● ● ○
Educational Stability for Students in Foster Care – SEA Foster Care Point of Contact	● ● ● ○
Educational Stability for Students in Foster Care – LEA Points of Contact	● ● ● ○
Educational Stability for Students in Foster Care – LEA Transportation Procedures	● ● ● ○
Educational Stability for Students in Foster Care – Subrecipient Monitoring	● ● ● ○
Other Title I Requirements – Early Childhood Education Support and Coordination	● ○ ○ ○
Other Title I Requirements – Committee of Practitioners	● ○ ○ ○
Other Title I Requirements – Paraprofessional Qualifications	● ● ● ○
Other Title I Requirements – Educator Equity	● ○ ○ ○

### TITLE I, PART C

Topic	Status
Identification and Recruitment	● ● ● ○
Provision of Services #1	● ○ ○ ○
Provision of Services #2	● ● ● ○

Migrant Student Information Exchange	● ○ ○ ○
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**TITLE II, PART A**

Topic	Status
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: SEA-Level Funds #1	● ○ ○ ○
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: SEA-Level Funds #2	● ○ ○ ○
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: LEA-Level Funds #1	● ○ ○ ○
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: LEA-Level Funds #2	● ○ ○ ○
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: LEA-Level Funds #3	● ○ ○ ○
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: LEA-Level Funds #4	● ● ○ ○
Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders: LEA-Level Funds #5	● ● ○ ○

**TITLE III, PART A**

Topic	Status
Standardized Statewide Entrance and Exit Procedures	● ○ ○ ○
Title III, Part A Formula Grant Subawards and Immigrant Subgrant Awards	● ○ ○ ○
Supplement Not Supplant	● ○ ○ ○
Activities by Agencies Experiencing Significant Increases in Immigrant Children and Youth	● ○ ○ ○
Parental Notification	● ○ ○ ○
Data Quality	● ○ ○ ○

**TITLE V, PART B**

Topic	Status
RLIS Program Objectives and Outcomes	● ● ● ○
SEA Financial Management	● ○ ○ ○
Subgrantee Use of RLIS Fund	● ● ● ○
Program Administration	● ● ○ ○
RLIS Subrecipient Monitoring	● ● ○ ○

**ESSER**

Topic	Status
Budgeting of the State Reserve and Subawards	● ● ● ●
Allocations/Sub-Award Process	● ● ● ○
CARES Act/Transparency Act Reporting	● ● ● ○
Risk Assessment	● ● ● ○
Subrecipient Monitoring	● ○ ○ ○
Maintenance of Effort	● ● ● ○
Maintenance of Equity	● ● ● ○
Equitable Services	● ● ● ○

## SECTION III

# Met Requirements with Commendation

## ESSER

### BUDGETING OF THE STATE RESERVE AND SUBAWARDS

### REQUIREMENT SUMMARY

A grantee and its subrecipients may only use program funds for allowable costs, as defined in 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, which are to prevent, prepare for, and respond to coronavirus.

CARES Act

ESSER Certification and Agreement Section 18003(c) and (e)

CRRSA

Section 2001 of the American Rescue Plan (ARP) Act

EDGAR 34 C.F.R. 76.530

Uniform Guidance 2 C.F.R. 200.403-475

### COMMENDATION

The SEA provided the SEA reserve budget, as well as reserve budget allocations, including over \$20 million in evidence-based interventions aimed at addressing learning loss, an additional \$4.1 million each for evidence-based summer enrichment and evidence-based afterschool. The SEA focused on interventions that supported Maine’s Whole Student approach.

During the review, Maine shared initiatives funded through their State reserve budget, including the Maine Online Opportunities for Sustained Education (MOOSE) project. Initially implemented with ESSER funds as a response to the urgent needs caused by the COVID-19 pandemic, educators across the State continue to submit and refine units of study, which has created a network of peer-support across the rural State. Based on this wide usage and engagement, Maine is committed to sustain the MOOSE initiative using State funds. We commend Maine for their expeditious response to the COVID-19 pandemic, innovation, and commitment to sustain the project. What started as an emergency response has become a growing repository of quality content and resources that are used as support-rich enhancements to school based education.

## Action Required

### Financial Management and Crosscutting

#### INTERNAL CONTROLS

#### REQUIREMENT SUMMARY

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

Uniform Guidance 2 C.F.R. § 200.303

#### ISSUE

Pursuant to 2 C.F.R. § 200.113 Mandatory Disclosures – the non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in appendix XII to this part are required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM). Failure to make required disclosures can result in any of the remedies described in [§ 200.339](#). (See also [2 C.F.R. part 180](#), [31 U.S.C. 3321](#), and [41 U.S.C. 2313](#).)

Pursuant to Title IX, Section 9203. Preventing Improper Use of Taxpayer Funds – Every Student Succeeds Act – to address the misuse of taxpayer funds, the Secretary of Education shall (1) require that each recipient of a grant or subgrant under the Elementary and Secondary Education Act of 1965 display, in a public place, the hotline contact information of the Office of Inspector General of the Department of Education so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use; (2) annually notify employees of the Department of Education of their responsibility to report fraud; and (3) require any applicant for a grant under such Act to provide an assurance to the Secretary and the entity awarding the subgrant that any information submitted when applying for such grant and responding to monitoring and compliance reviews is truthful and accurate.

MDOE is currently updating its Grant Management Handbook and submitted the draft to the Department on June 7, 2023. The draft of the Grant Management Handbook has a section titled 200.113 Mandatory Disclosures. The section appropriately informs employees of the requirement to report

certain civil, criminal, or administrative proceedings to the SAM. However, the LEAs interviewed during the monitoring review stated, via emails to the Department, that they do not have a written policy or procedure for reporting fraud, waste, and abuse. Additionally, the MDOE Grant Management Handbook draft incorrectly directs employees to report fraud, waste, and abuse to the U.S. Department of State Office of Inspector General (OIG) instead of the U.S. Department of Education Office of Inspector General (ED OIG) as required by Title IX, Section 9203 of Every Student Succeeds Act.

MDOE publicly displays, on its website, the link for reporting fraud, waste, and abuse to ED OIG as well as the ED OIG hotline telephone number. However, both LEAs interviewed stated, via email to OESE, that they have not publicly posted the ED OIG link or hotline for stakeholders to easily report fraud, waste, or abuse.

ED OIG conducts audits, investigations, and inspections of educational programs and operations, and has criminal investigators nationwide who conduct investigations of fraudulent schemes targeting ED funds and/or programs. ED OIG is responsible for protecting the integrity of Federal education programs administered by the Department, ensuring vital funds are used for allowable and intended purposes and in accordance with all applicable requirements. Title IX, Section 9203 of Every Student Succeeds Act requires ED OIG hotline contact information be publicly posted so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use. ED OIG relies on entities that participate in ED programs and their auditors to be alert to opportunities for fraud involving those programs. Without its contact information posted, individuals would not be able to alert ED OIG and opportunities could be missed to identify potential fraud, waste, or abuse.

#### **REQUIRED ACTION**

Within 60 business days of receipt of this report, MDOE must provide to the Department evidence of guidance given to LEAs or verification that LEAs are aware that (1) the non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award, and (2) non-Federal entities that have received a Federal award including the term and condition outlined in appendix XII to this part are required to report certain civil, criminal, or administrative proceedings to the SAM as required by 2 C.F.R. § 200.113.

Additionally, within 60 business days of receipt of this report, MDOE must provide to the Department:

1. Updated policies and procedures which:
  - a. Require that each recipient of a grant or subgrant under the Elementary and Secondary Education Act of 1965 display, in a public place, the hotline contact information of ED OIG so that any individual who observes, detects, or suspects improper use of taxpayer funds can easily report such improper use;
  - b. Annually notify employees of their responsibility to report fraud; and
  - c. Require any applicant for a grant under such Act to provide an assurance to the Secretary and entity awarding the subgrant that any information submitted when applying for such grant and responding to monitoring and compliance reviews is truthful and accurate; and
2. Verification that it and its subrecipients have publicly posted ED OIG fraud reporting contact information as required by Title IX, Section 9203 of Every Student Succeeds Act.

## AUDIT REQUIREMENTS

## REQUIREMENT SUMMARY

An SEA is responsible for resolving the audit findings of subrecipients and for conducting audit follow-up activities and corrective actions for findings from NDE's yearly Single Audit. An SEA is also required to ensure that subrecipients who meet the audit threshold are audited and the audits are reported according to established timelines. An LEA that expends greater than \$750,000 in Federal funding in a given fiscal year is required to have an audit conducted in accordance with the requirements established in the Uniform Guidance. Completed audits must be submitted within the earlier of 30 calendar days after receipt of the auditors' report or nine months after the end of the audit period. An LEA must promptly follow up and take corrective action on all audit findings.

Uniform Guidance 2 C.F.R. §§ 200.332(d)(2), 200.332(d)(3), 200.332(f), 200.511(a), 200.512, 200.521(a), and 200.521(c)

## ISSUE

2 C.F.R. § 200.521(c) states that an SEA must be responsible for issuing management decisions for audit findings that relate to Federal awards it makes to subrecipients. Additionally, 2 C.F.R. § 200.521(a) states that this management decision must include the following information: 1) whether or not the audit finding is sustained and the reasons for the decision; 2) the expected auditee action to repay any disallowed costs, make financial adjustments, or other action; 3) a timetable for follow-up should be given if the auditee has not completed corrective action; and 4) a description of any appeal process available to the auditee.

During the review, MDOE stated that a formal management decision is not issued for subrecipient audit findings. MDOE indicated that it informs LEAs of subrecipient corrective actions and determines the sufficiency of those corrective actions. However, it is unclear how MDOE communicates the determinations. Since MDOE does not issue management decisions that include the information listed above, it is not in compliance with this requirement.

## REQUIRED ACTION

Within 60 business days of receipt of this report, MDOE must provide to the Department a template for a formal management decision letter it will issue for subrecipient audit findings. This template should include placeholders for the information required by 2 C.F.R. § 200.521.



## EQUIPMENT AND SUPPLIES MANAGEMENT

## REQUIREMENT SUMMARY

An SEA shall use, manage, and dispose of equipment and supplies purchased using Federal funds in accordance with all relevant State laws and procedures. SEAs shall also ensure that equipment and supplies are used only for authorized purposes of the project during the period of performance (or until no longer needed).

Uniform Guidance 2 C.F.R. §§ 200.313 and 200.314

GAO Green Book Principle 10.03

## ISSUE

Pursuant to 2 C.F.R. § 200.313(d)(1) *Management requirements* -- Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, require that property records be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

Pursuant to 2 C.F.R. § 200.329(a) *Monitoring by the non-Federal entity* – The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function, or activity.

On June 7, 2023, MDOE submitted to the Department a copy of its “List of Fixed Assets”. The list did not include the property’s serial number or other identification number, who holds the title, cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. Therefore, we determined that MDOE failed to establish effective policies and procedures for maintaining adequate property records as required by 2 § C.F.R. 200.313(d)(1).

Furthermore, on June 7, 2023, one LEA submitted to the Department a copy of its “Inventory List of Equipment and Supplies”. The property list did not include the property’s serial number or other identification number, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property as required by 2 § C.F.R. 200.313(d)(1). Based on our review of the LEA’s property records, we determined that the LEA failed to establish policies and procedures to maintain property records that include Federal required information. Therefore, we

determined that MDOE failed to satisfy its subrecipient monitoring requirements under 2 C.F.R. § 200.329(a).

### **REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must submit to the Department updated policies and procedures for maintaining records for property purchased with Federal funds that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property as required by 2 C.F.R. § 200.313(d)(1).

Additionally, within 60 business days from the date of this report, MDOE must submit to the Department updated policies and procedures to monitor the LEAs' property records policies and procedures as required by 2 C.F.R. § 200.329(a).

## SUBRECIPEINT MONITORING

## REQUIREMENT SUMMARY

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

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

### ISSUE

The Uniform Guidance section 2 C.F.R. § 200.332(d) requires that an SEA monitor LEAs 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.

MDOE did not document that it has a subrecipient monitoring process that satisfies the requirements established by 2 C.F.R. § 200.332(d) for fiscal or programmatic monitoring. During the review, MDOE indicated that it has implemented a new subrecipient monitoring process. However, MDOE did not document that its new subrecipient monitoring process covers a range of topics to provide reasonable assurance that LEAs are implementing the covered programs consistent with fiscal and programmatic requirements or includes a sufficient number of LEAs. MDOE's new process includes reviewing risk scores from MDOE's updated risk assessment to determine the type of monitoring for LEAs based on low, medium and high risk. MDOE's procedures for subrecipient monitoring of LEAs at other risk levels were not clearly documented, and the protocols MDOE provided do not include indicators that address either fiscal or programmatic requirements.

For subrecipient monitoring, MDOE uses its Grants4ME online system to request and review documents from LEAs regarding their use of Federal funds four times a year. This process does not clearly address how programmatic and fiscal requirements are fulfilled.

Regarding fiscal requirements, MDOE indicated that financial information is monitored through ongoing processes such as single audits, grant reimbursement requests, and application reviews. However, to ensure compliance with fiscal requirements, Uniform Guidance section 2 C.F.R. § 200.332(d) requires that subrecipient monitoring be conducted during the post-award phase of grant making. An SEA cannot rely on its annual single audit to fulfill the requirements of 2 C.F.R. § 200.332(d).

Regarding programmatic requirements, MDOE did not demonstrate how its subrecipient monitoring covers of a range topics in a manner sufficient to provide reasonable assurance that LEAs are implementing the covered programs consistent with requirements. In addition, the program-specific sections of the Department's performance review identified specific programmatic areas in which

MDOE's subrecipient monitoring is not sufficient, including the following (see program-specific issues and required actions for more detail):

- For Title I:
  - Graduation Rate Indicator
  - Implementation of ATSI and TSI Plans
  - Monitoring – Subrecipient Monitoring for Schoolwide Programs
  - Monitoring – Subrecipient Monitoring for Targeted Assistance Programs)
- For Title II, Part A:
  - Ensuring that LEAs give priority to the needs of CSI and TSI schools and schools that have the highest percentage of children counted under section 1124(c) when making decisions about Title II, Part A spending.
  - Ensuring that Title II, Part A-funded activities for which an evidence base is required are evidence-based; ensuring the professional development activities funded with Title II, Part A conform to the statutory professional development definition in section 8101(42).

### **REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must provide to the Department a plan and a timeline to implement a post-award monitoring process to ensure compliance with fiscal and programmatic requirements for the programs covered by this performance review during the next fiscal year.

The plan and timeline must include descriptions of the methods of monitoring used (e.g., self-monitoring, desk monitoring, and on-site monitoring); the number of LEAs that MDOE will monitor each year; the LEA selection process and criteria for identifying monitored LEAs; protocols and indicators for fiscal and programmatic requirements for each of the covered programs; and the post-monitoring process, including the monitoring report process and templates, and the process and timeline for resolution of compliance issues.

The process outlined in the submitted plan must result in MDOE monitoring the following fiscal elements: procedures for documenting personnel expenditures (time and effort documentation), procurement procedures, equipment management and inventory procedures, and LEA procedures for determining cost allowability, in addition to any other fiscal topics or requirements MDOE determines should be covered. The plan and timeline for implementing a post-award fiscal monitoring process must also include the LEA identification procedure, a description of planned monitoring activities, and any other information necessary to sufficiently describe its design and implementation.

The process outlined in the submitted plan must also result in MDOE monitoring that covers a range of programmatic topics sufficient to provide reasonable assurance that LEAs are implementing the covered programs consistent with requirements and that addresses each of the program-specific areas listed in the issue description. MDOE may wish to refer to the programmatic topics covered at the SEA- and LEA-level for this performance review as one example of a range of topics sufficient for programmatic monitoring.

Within 60 business days of receiving this report, MDOE must submit a date by which it will submit to the Department copies of the monitoring reports for LEAs resulting from its subrecipient monitoring during the 2023-2024 school year.

## SSA Crosscutting Financial and Programmatic

### ALLOCATIONS

### REQUIREMENT SUMMARY

SEAs shall ensure that, when sub-awarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for sub-awarding 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, and 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

[34 C.F.R. § 200.72](#) requires an SEA to determine Title I-A formula counts (defined in 34 C.F.R. § 200.70(b)) for each LEA that is not on the Census list (i.e., a special LEA) that the Department uses to calculate allocations and adjust the Department-determined Title I-A allocations for any special LEA that is eligible under one or more Title I-A formula.

[34 C.F.R. § 200.74](#) authorizes an SEA, with the Department's approval, to redetermine eligibility and allocations for each LEA under 20,000 total population (i.e., small LEAs, including special LEAs) using a State-determined poverty measure and redistribute the amounts that the Department calculated for small LEAs based on the State measure. The Department approved MDOE to redistribute Title I-A allocations among small LEAs. In doing so, 34 C.F.R. § 200.74(e) stipulates that the total amount available for redistribution among small LEAs under each Title I-A formula is the amount after a State has made the adjustments to LEA allocations required by 34 C.F.R. § 200.72(c).

Maine has special LEAs (charter school LEAs) that serve children who reside in large LEAs (i.e., any LEA that is not a "small LEA") and in small LEAs. Therefore, MDOE must adjust the Department-determined Title I-A allocations in accordance with 34 C.F.R. § 200.72 (including applying the hold-harmless provisions in 34 C.F.R. § 200.73). MDOE, however, prior to implementing the small LEA redistribution under 34 C.F.R. § 200.74, has not applied 34 C.F.R. § 200.72 (and the hold-harmless provisions in 34 C.F.R. § 200.73), and instead has only determined the allocations of special LEAs in the small LEA redistribution step. Therefore, MDOE's Title I-A allocation procedures are incorrect because MDOE has not adjusted the Department-determined Title I-A LEA allocations under 34 C.F.R. § 200.72(c) to determine the total amount available for small LEAs, as required by 34 C.F.R. § 200.74(e).

**REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must provide the Department with evidence that it has revised its procedures to calculate Title I-A allocations consistent 34 C.F.R. § 200.72, as described above. MDOE must also submit Federal fiscal year (FY) 2023 Title I-A allocations that demonstrate that it has applied 34 C.F.R. §§ 200.72 and 200.73 prior to carrying the small LEA redistribution under 34 C.F.R. § 200.74.

## ALLOCATIONS

## REQUIREMENT SUMMARY

SEAs shall ensure that, when sub-awarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for sub-awarding 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, and 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

Of Title II-A funds available to LEAs, ESEA section 2102(a)(2) requires a State to allocate:

- 20 percent of the funds based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves (based on the most recent Census data); and
- 80 percent of the funds 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 recent Census data).

In addition, the SEA must make adjustments to make allocations for LEAs, such as charter LEAs, for which Census data are not available.

MDOE uses the proper data sources (Census poverty and Census population or derived equivalents) to calculate Title II-A allocations for LEAs and adjusts LEA formula counts for charter LEAs consistent with requirements.

However, in addition to making appropriate adjustment for charter LEAs, MDOE also makes similar adjustments if a child who resides in one LEA attends a private school or a public school that is located in another geographical LEA and uses these adjusted LEA formula counts to determine LEA-level Title II-A allocations.

While a State must make adjustments to make allocations for charter LEAs, nothing in Title II-A statute authorizes a State to adjust the data used for allocations for geographical LEAs or, after allocations are determined, adjust subaward amounts if an LEA serves children who reside in another geographical LEA.



**REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE 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. MDOE must also submit revised Federal fiscal year (FY) 2022 (school year 2022-2023) and FY 2023 (school year 2023-2024) Title II, Part A calculations that show the differences between the revised calculations and the previous calculations for each LEA.

## ALLOCATIONS

## REQUIREMENT SUMMARY

SEAs shall ensure that, when sub-awarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for sub-awarding 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, and 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

When determining the allocations for new or significantly expanding charter school LEAs, the State must use actual current-year student enrollment and eligibility data (e.g., for Title I, Part A, and Title II, Part A, U.S. Census-equivalent count of students in poverty, and for Title III, Part A, English learner count) for the charter school LEA as required by ESEA section 4306 and 34 C.F.R. § 76.791. For the year the charter school LEA opens or significantly expands its enrollment, the eligibility determination may not be based on enrollment or eligibility data from a prior year, even if the SEA makes eligibility determinations for other LEAs under the program based on enrollment or eligibility data from a prior year. MDOE's procedures for Title I, Part A, Title II, Part A, and Title III, Part A are inconsistent with these requirements. For example, MDOE's procedures rely on charter school LEAs sending updated information to the SEA rather than on a consistent process for collecting this information from all charter school LEAs.

## REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must provide the Department with evidence that it has revised its procedures to calculate Title I, Part A; Title II, Part A; and Title III, Part A allocations consistent with ESEA requirements and regulations pertaining to new and significantly expanding charter school LEAs, as described above. MDOE must also provide evidence that it has incorporated these revised procedures into its FY 2023 (SY 2023-2034) allocation calculations.

## MAINTENANCE OF EFFORT

## REQUIREMENT SUMMARY

An SEA shall ensure that each LEA amount of funding is not less than 90% of the amount available the preceding year.

ESEA §§ 1118(a) and 8521

EDGAR 34 C.F.R. § 299.5

## ISSUE

An LEA may receive Federal funds under the ESEA only if the combined fiscal effort per student or the aggregate expenditures of State and local funds with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year. An SEA must reduce an LEA's allocation if the LEA fails to maintain effort in a given fiscal year's maintenance of effort (MOE) determination and also failed to maintain effort in one or more of the five immediately preceding fiscal years' MOE determinations. (ESEA sections 1118(a) and 8521).

### MOE Review Process

Evidence submitted by MDOE (e.g., draft MDOE standard operating procedures (SOPs) for implementing maintenance of effort (MOE) requirements and other evidence) did not sufficiently describe the financial data used by MDOE to calculate MOE. For example, MDOE's spreadsheets showing calculations to determine whether LEAs maintained effort do not use a consistent set of terms, such as "Total Operating Costs excluding Debt Service & Community Service" and "Aggregate Operating Costs," and the draft MDOE MOE SOPs submitted describe basing reductions on "aggregate spending." As a result, it is not clear which financial data MDOE uses to calculate MOE.

In addition, the evidence did not identify the specific expenditure categories included and excluded (e.g., capital outlay) from the calculations.

Finally, MDOE does not regularly provide written guidance regarding MOE requirements to its LEAs.

### MOE Calculation/Review Process – Waivers

MDOE tracks whether an LEA that fails to maintain effort also failed to do so in one or more of the five immediately preceding fiscal years to implement the "1 in 5" provision in ESEA section 8521(b)(1) and refers to an LEA that fails to maintain effort and does not receive a reduction because it did not fail MOE in one or more of the five immediately preceding fiscal years' MOE determinations as having received a "waiver" from a reduction. As ESEA authorizes only the Department to approve waivers of the ESEA section 8521 MOE requirements (ESEA section 8521(c)), MDOE's use of the term "waiver" for an LEA that fails to maintain effort but does not receive a reduction in funding because it maintained effort in each of the five immediately preceding fiscal years' MOE determination may cause confusion because ESEA section 8521 does not authorize an SEA to grant a waiver of the ESEA MOE requirements. Rather, ESEA section 8521(b)(1) requires an SEA to reduce an LEA's allocations for programs covered by the ESEA section 8521 requirements only if an LEA fails to maintain effort and

failed to maintain effort in one or more of the five immediately preceding fiscal years' MOE determinations.

### **REQUIRED ACTION**

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

- Final MDOE standard operating procedures for implementing MOE requirements that include (1) consistent use of terms for combined State and local fiscal effort per student and aggregate expenditures and (2) descriptions of the categories of expenditures included and excluded in the MOE calculations.
- Evidence MDOE has made these procedures and/or corresponding written guidance available to LEAs (e.g., by posting them on MDOE's website).

To help address the required action, MDOE may wish to refer to [34 C.F.R. § 299.5](#) for a list of the programs covered by the ESEA section 8521 MOE requirements and the categories of expenditures included and excluded and Department guidance, specifically the MOE sections of *Fiscal Issues: Title I, Part A* (February 2008), and *ESSA Fiscal Changes & Equitable Services Guidance* (November 2016).

### **RECOMMENDATION**

To avoid confusion with the MOE waiver provisions in ESEA section 8521(c), the Department recommends that MDOE no longer refer to the "1 in 5" provision in ESEA section 8521(b)(1) as a "waiver." (*MOE Calculation/Review Process – Waivers*) For alternate language to describe ESEA section 8521(b)(1), please see page 20 of the *ESSA Fiscal Changes & Equitable Services Guidance*.

## EQUITABLE SERVICES

## REQUIREMENT SUMMARY

An SEA shall ensure that LEAs use Federal funds to provide benefits to eligible children enrolled in private schools and to ensure that teachers and families of participating private school children participate on an equitable basis. 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 and 8501

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

Uniform Guidance 2 C.F.R. § 76.661

### ISSUE

ESEA section 8501 requires States 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. 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 activities under ESEA section 2101(c)(4). MDOE provided no evidence that it is providing equitable services with State-level Title II, Part A funds.

### REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must submit to the Department a plan and a timeline detailing how, when using State-level Title II, Part A funds, it will ensure full compliance with all requirements in section 8501 of the ESEA, including consultation, for the provision of services for eligible nonpublic school educators.

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

### STATE ASSESSMENT REQUIREMENTS

### REQUIREMENT SUMMARY

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

ESEA §§ 1201(a) and 1111(b)(2)(B)

EDGAR 34 C.F.R. §§ 200.1-200.10

### ISSUE

An SEA must administer its assessments implemented for ESEA Title I to all public school students in the State. (ESEA section 1111(b)(2)(B)(i). The Department is concerned about the low high school participation rates for the 2021-2022 school year in Maine for the “all students” group and almost all subgroups. For all students and each accountability subgroup across reading/language arts, mathematics and science, participation rates range from 69 to 85 percent (except for the Native Hawaiian/Other Pacific Islander/Pacific Islander subgroup, which had 90 percent participation rates).

### REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must submit, for the all students group and any subgroup below 95 percent participation on the statewide high school assessments in reading/language arts, mathematics, or science in the 2022-2023 school year, a plan and timeline for increasing those participation rates to above 95 percent.

## STATEWIDE ACCOUNTABILITY SYSTEM

## REQUIREMENT SUMMARY

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

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

## ISSUE

### All Public School Students

An SEA must measure the performance of all students in all public schools in the State on each indicator in the State’s system of annual meaningful differentiation for Title I accountability purposes, unless a Title I exception applies (e.g., under the partial attendance rules). (ESEA section 1111(c)(4)(B)).

MDOE’s *Maine Educational Assessments, Maine Comprehensive Assessment System Guidelines*, updated March 2023, helpfully addresses a wide range of student enrollments in Maine and how MDOE includes such students in its State assessment and accountability systems. However, in certain cases, MDOE does not include students for school-level Title I accountability purposes consistent with requirements. MDOE must include any student enrolled in a Maine public school in its accountability system. This includes students such as non-Maine resident students and international students who attend Maine public schools but are privately funded. Conversely, MDOE may exclude from its ESEA Title I accountability system a Maine resident who attends a public school in a different State and a Maine resident who attends a residential treatment center not under the jurisdiction of MDOE.

### Graduation Rate Indicator

First, an SEA must describe a Graduation Rate indicator for its system of annual meaningful differentiation that includes a four-year adjusted-cohort graduation rate (ACGR) and, at a State’s discretion, one or more extended-year ACGRs. (ESEA section 1111(c)(4)(B)(iii)).

MDOE includes in its Graduation Rate indicator a five- and six-year combined ACGR, in addition to its four-year ACGR. However, MDOE did not clearly describe (e.g., in its *Maine School Accountability System Implementation Specifications, 2021-2022 Academic Year*) how it calculates its five- and six-year combined ACGR for its Graduation Rate indicator.

Second, an SEA has discretion to establish requirements for credentials awarded to students completing high school. In calculating the ACGR, an SEA may count as graduates only students who have earned a “regular high school diploma” as defined in ESEA section 8181(43). A “regular high school diploma”

must be fully aligned with State standards or be a higher diploma. An SEA may offer multiple pathways for students to meet requirements for the State's regular high school diploma and be counted as graduates in ACGR calculations for purposes of accountability and reporting under the ESEA, such as differing sets of requirements (e.g., courses and credits). Because under the ESEA a regular high school diploma must be fully aligned with State standards, each pathway to a regular high school diploma also must be fully aligned with State standards. For purposes of the ACGR, the ESEA only permits those students who receive a regular high school diploma, which is defined as the diploma that is awarded to the preponderance of students in the State and is fully aligned to the State standards (ESEA section 8101(43)). Therefore, *all* students, including children with disabilities, must be held to the same challenging State academic standards, which must include the same knowledge, skills, and levels of achievement, expected of all public school students in a State for the grade in which a student is enrolled. (ESEA section 1111(b)(1)(B)).

Consistent with the above requirements, to be counted as having received a regular high school diploma for purposes of the ACGR, students with disabilities must have met the same State standards with respect to graduation requirements as their nondisabled peers. Accordingly, a high school diploma based on attainment of Individualized Education Program (IEP) goals by a child with a disability may be considered a regular high school diploma only if the SEA can demonstrate that a diploma based on meeting those goals is "fully aligned with State standards." (ESEA section 8101(23), 8101(25) and 8101(43)). That is, the SEA must be able demonstrate that meeting IEP goals holds children with disabilities to the same standards that nondisabled students must meet to obtain a regular high school diploma, including with respect to the credits, coursework, and other State-determined requirements necessary to obtain a diploma. It is unlikely that meeting IEP goals alone would be sufficient to demonstrate that a diploma is fully aligned with State standards for graduation.

MDOE counts as graduates in its ACGRs certain students that are awarded a Maine High School Diploma based on pathways to graduation allowed under State law, including pathways for children with disabilities who satisfy diploma requirements in the manner specified by the child's IEP, for career and technical students through study within the career and technical school curriculum, and students who complete a dual enrollment career and technical education program. It is unclear, however, that MDOE ensures each pathway is fully aligned with State standards.

Finally, under the ESEA, to remove a student from a cohort for the purposes of calculating the ACGR, a school or LEA must require documentation, or obtain documentation from the SEA, to confirm that the student has transferred out, emigrated to another country, or transferred to a prison or juvenile facility, or is deceased. (ESEA section 8101(23)(B) and 8101(25)(B)).

MDOE does not require a school or LEA to have documentation that the student has transferred out to an educational setting where the student is expected to earn a regular high school diploma, emigrated to another country, transferred to prison or juvenile facility, or is deceased prior to removing a student from a cohort.

#### Partial Attendance

An SEA may not use in its system of annual meaningful differentiation the performance of a student who has not attended the same school within an LEA for at least half of a school year for its Academic Achievement, Other Academic, Progress in Achieving English Language Proficiency (ELP), and School



Quality or Student Success (SQSS) indicators. For the Graduation Rate indicator, for a non-graduate, an SEA may count the student either at the high school in which such student was enrolled for the greatest proportion of school days while enrolled in grades 9 through 12 or in which the student was most recently enrolled.

MDOE did not document that it implements the partial attendance requirements in ESEA section 1111(c)(4)(F)(i) for its calculations for its Academic Achievement, Other Academic, Progress in Achieving ELP, and SQSS indicators and requirements in in ESEA section 1111(c)(4)(F)(ii) for its Graduation Rate indicator. Although MDOE indicated it defines partial attendance as student enrollment for a minimum of 10 days between October 1 and May 26, documentation provided by MDOE did not consistently provide this definition (e.g., one document defined partial attendance as student enrollment for a minimum of 10 days and another document defined it as student enrollment between October 1 and May 26).

### Annual Meaningful Differentiation

An SEA has discretion to define the major racial and ethnic subgroups it uses for ESEA Title I purposes. (ESEA section 1111(c)(1)). In addition, under ESEA section 1111(c)(4)(C) an SEA must establish a system of annual meaningful differentiation for all public schools in the State. The SEA must identify schools at the beginning of the subsequent school year. (ESEA section 1111(c)(4)(D)(i).

In documentation and interviews for the performance review, MDOE clarified it includes a “two or more races” subgroup in its system of annual meaningful differentiation. However, Maine’s ESEA consolidated State plan (2019) does not define a two or more races subgroup for this purpose.

For results for the 2021-2022 school year for identifications for the 2022-2023 school year, MDOE did not include all public schools in its system of annual meaningful differentiation. Specifically, MDOE did not implement the different methodologies in its approved ESEA consolidated State plan for annual meaningful differentiation for schools for which an accountability determination cannot be made based on Maine’s indicators. This resulted in no accountability determination for 60 schools (certain Pre-K – grade 2 schools, Pre-K – grade 5 schools, and mixed grade configuration schools).

## **REQUIRED ACTION**

Within 30 business days of receiving this report, MDOE must submit to the Department:

- Revised MDOE *MEA (Maine Educational Assessments): Maine Comprehensive Assessment System Guidelines* that outline the students MDOE does and does not include in the indicators for its system of annual meaningful differentiation (consistent with the information noted above). (*All Public School Students*)
- The business rules MDOE will use to make school identifications for the 2023-2024 school year (using data from the 2022-2023 school year) and future school years:
  - For how it calculates its five- and six-year combined ACGR (i.e., separately showing graduates from the five-year cohort, graduates from the six-year cohort, the five-year cohort, and the six-year cohort). (*Graduation Rate Indicator*)
  - To implement implements partial attendance requirements. These business rules must clearly state MDOE’s definition of partial attendance for its Academic Achievement, Other Academic, ELP and SQSS indicators and also its Graduation Rate indicator. (*Partial Attendance*)

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

- Documentation that MDOE ensures each pathway to a Maine high school diploma for which MDOE counts students as graduates for the purposes of calculating ACGRs is fully aligned with State standards. For each pathway for which MDOE counts students as graduates for ACGR purposes, this evidence must include information on how it ensures that each LEA meets the applicable requirements (e.g., through guidance disseminated to LEAs, monitoring). Alternatively, MDOE may submit revised business rules for calculating its ACGRs (e.g., *Maine School Accountability System Implementation Specifications*) documenting that MDOE will no longer count as graduates in its ACGR calculations students awarded a Maine High School Diploma based on a pathway MDOE has not demonstrated is fully aligned with State standards. (*Graduation Rate Indicator*)
- Regarding student removal from ACGR cohorts, (1) the procedures MDOE will implement for the SEA, LEA and school levels for requiring documentation that a student has transferred out, emigrated to another country, or transferred to a prison or juvenile facility, or is deceased prior to removing a student from an ACGR cohort, (2) a plan and a timeline for implementing these procedures no later than for data for the 2023-2024 school year, and (3) evidence it has provided guidance for implementing the procedures to LEAs in Maine. The Department also notes that its *High School Graduation Rate Non-Regulatory Guidance* (January 2017) (available at: <https://www2.ed.gov/policy/elsec/leg/essa/essagraderateguidance.pdf>) may serve as a resource for MDOE in addressing this action required. (*Graduation Rate Indicator*)
- A request to amend Maine’s ESEA consolidated State plan (2019) to define a “two or more races” subgroup in its system of annual meaningful differentiation and make conforming changes throughout (e.g., long-term goals and measurements of interim progress for the a two or more races subgroup. (Annual Meaningful Differentiation)
- MDOE’s business rules for implementing the different methodologies in its approved ESEA consolidated State plan for annual meaningful differentiation for schools for which an accountability determination cannot be made based on Maine’s indicators and evidence that MDOE implemented its alternate system of annual meaningful differentiation using data from the 2022-2023 school year for identifications for the 2023-2024 school year. (Annual Meaningful Differentiation)
- Finally, consistent with the Department’s letter on February 24, 2023 letter (available at: <https://oese.ed.gov/files/2023/02/Maine-achievement-standards-letter.pdf>), documentation (to be provided not later than December 1, 2023) that MDOE used the results of the summative assessments administered in the 2022-2023 school year in its accountability system to identify schools for comprehensive support and improvement (CSI), additional targeted support and improvement (ATSI), and targeted support and improvement due to consistently underperforming subgroups (TSI).

## IDENTIFICATION OF SCHOOLS

## REQUIREMENT SUMMARY

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)I(iii), 1111(d)(2)(C)-(D), and 1111(d)(3)(A)(i)(II)

## ISSUE

### Comprehensive Support and Improvement Schools (Low Graduation Rates) and Targeted Support and Improvement Schools due to Consistently Underperforming Subgroups (TSI)

An SEA establishes its State accountability system for ESEA Title I in its approved ESEA consolidated State plan (or, for the 2022-2023 school year based on 2021-2022 results, the associated ESEA State plan Addendum), including methodologies for identifying schools for comprehensive support and improvement (CSI), which MDOE refers to as Tier III schools, targeted support and improvement due to consistently underperforming subgroups (TSI), which MDOE refers to as Tier II schools, or additional targeted support and improvement (ATSI), which MDOE refers to as Tier I schools. This includes the SEA's methodologies for identifying CSI-Low graduation rate schools.

MDOE's procedures for identifying CSI-Low graduation rate schools, described in its *Maine School Accountability System Implementation Specifications, 2021-2022 Academic Year* (pp. 49 & 50) and confirmed during interviews for this performance review, are not consistent with Maine's approved ESEA consolidated State plan, 2019 (p. 51). MDOE's procedures for identifying CSI-Low graduation rate schools in Maine's consolidated State plan (2019) are to identify high schools with a graduation rate below 86 percent. MDOE's procedures described in its *Maine School Accountability System Implementation Specifications, 2021-2022 Academic Year* are to identify high schools with 4-year and

combined 5- and 6-year ACGRs for the “all students” group below 67 percent. While this is permissible under the ESEA, the State’s ESEA consolidated State plan must accurately describe MDOE’s methodology for identifying CSI-Low graduation rate schools.

In MDOE’s ESEA State plan Addendum 2022, for data for the 2021-2022 school year for school identifications for the 2022-2023 school year, MDOE revised its methodology for identifying schools for TSI. Specifically, MDOE revised its methodology to identify TSI schools to use the same methodology it would use to identify ATSI schools. However, the sample notification letter for schools identified for TSI submitted by MDOE indicates MDOE identified for TSI schools with one or more student populations consistently experiencing challenges (over three years) in the same indicator(s), which is different from its approved methodology for identifying schools for TSI in its ESEA State plan Addendum 2022.

#### Additional Targeted Support and Improvement Schools

A school identified for ATSI must continue to be identified as ATSI until it meets the State-defined exit criteria. (ESEA section 1111(d)(3)(A)(i)). An SEA also must publicly report the number and names of all public schools in the State identified for ATSI. (ESEA section 1111(h)(1)(C)(i)(V)).

For the performance review, MDOE stated that 107 schools were identified for ATSI for the 2022-2023 school year based on data from the 2021-2022 school year. However, in documentation submitted to the Department on November 30, 2019, MDOE documented that 246 schools were identified for ATSI in Maine for the 2019-2020 school year based on data from the 2018-2019 school year. ATSI exit criteria in MDOE’s approved ESEA consolidated State plan (p. 55) require schools to show three consecutive years of progress using its accountability model in its ESEA consolidated State plan to exit ATSI status (called Tier I status in Maine). Due to the COVID-19 pandemic, MDOE requested and received accountability and school identification waivers. In addition to permitting the State to pause the identification of new schools in 2019-2020 and 2020-2021, MDOE could not exit any school that was previously identified for CSI, TSI, or ATSI. As a result, no schools in Maine would have been eligible to exit ATSI status between 2019-2020 and 2022-2023.

#### **REQUIRED ACTION**

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

- A request to amend its ESEA consolidated State plan to reflect its current practice for identifying CSI-Low graduation rate schools. (*Comprehensive Support and Improvement Schools (Low Graduation Rates)*)
- Documentation that clearly indicates whether it identified schools for TSI using data from the 2021-2022 school year using the methodology described in MDOE’s ESEA State plan Addendum 2022 (i.e., the same methodology MDOE used for identifying ATSI schools) or the methodology described in its notification letter to newly identified TSI schools. (*Targeted Support and Improvement Schools (Consistently Underperforming Subgroups)*)
- For the 246 schools MDOE documented as identified as ATSI for the 2019-2020 school year, a list of these schools no longer in ATSI status for the 2022-2023 school year with an explanation for the change in status. For the previously identified schools that remain in ATSI status, evidence that MDOE is requiring the schools to implement a school support and improvement plan during the 2023-2024 school year (e.g., copy of communication or guidance provided to

LEAs and schools regarding plan requirements). *(Additional Targeted Support and Improvement Schools)*

## SUPPORT FOR SCHOOL IMPROVEMENT

## REQUIREMENT SUMMARY

Upon receiving notification from the State, an LEA shall, for each school identified by the State and in partnership with stakeholders, develop and implement a comprehensive support and improvement plan. The SEA shall notify an LEA of any school served by the LEA that is identified for targeted support and improvement, and the LEA shall notify such identified schools. An SEA must establish statewide exit criteria for schools identified for comprehensive support and improvement and additional targeted support and improvement. Periodically, an SEA must review resource allocation to support school improvement in each LEA serving a significant number or a significant percentage of schools identified for Comprehensive or Targeted support and improvement and must provide technical assistance to each LEA serving a significant number of schools identified for Comprehensive or Targeted support and improvement.

ESEA §§ 1003, 1111(d)(1)-(2), 1111(d)(3)(A), and 8101(21)(B)

## ISSUE

### School-Level Plan Requirements

Schools identified for CSI (called Tier III schools in Maine), TSI (called Tier II schools in Maine), or ATSI (called Tier I schools in Maine) must develop school improvement plans. To receive funds under ESEA section 1003 to serve identified schools, an LEA also must submit an application to the SEA describing how it will use the funds for each identified school to be served.

MDOE described its process for school planning, which uses one LEA- and school-level comprehensive needs assessment (CNA) template and certain companion documents (i.e., application for ESEA section 1003 funds and review checklist, a memorandum of understanding (MOU), and schoolwide program plan review rubric) to meet school-level planning requirements for CSI, TSI, and ATSI plans (in addition to for Title I schoolwide program plans) and LEA applications for ESEA section 1003 funds for identified schools. Only Title I schools and LEAs complete the CNA. The CNA requires completion of a data collection and analysis section regarding student outcomes and other educationally related data. Please see Schoolwide Program section of this report for more information regarding required actions for those plans.

### *Support and Improvement Plans (ESEA section 1111(d)(1)(B) and (d)(2)(B))*

Each school identified for CSI must develop and implement a school-level CSI plan that:

- Is developed and implemented in partnership with stakeholders;
- Is developed and implemented for the school to improve student outcomes;
- Is informed by all indicators in the State's Title I accountability system, including student performance against State-determined long-term goals;
- Includes evidence-based interventions;

- Is based on a school-level needs assessment;
- Identifies resource inequities, which may include a review of LEA and school-level budgeting, to be addressed through implementation of such CSI plan;
- Is approved by the school, LEA, and SEA;
- Upon approval and implementation, is monitored and periodically reviewed by the SEA.

Each school identified for ATSI or TSI must develop and implement a school-level targeted support and improvement plan that:

- Is developed and implemented in partnership with stakeholders;
- Is developed and implemented to improve student outcomes;
- Based on the indicators in the statewide accountability system for each subgroup of students for which the identification is based;
- Informed by all indicators, including student performance against long-term goals;
- Includes evidence-based interventions;
- Is approved by the LEA prior to implementation of such plan; and
- For ATSI schools only, identifies resource inequities (which may include a review of LEA- and school-level budgeting), to be addressed through implementation of such plan.

MDOE described that a school's CSI plan consists of the school's CNA, the LEA's application for ESEA section 1003 funds for the school, and an MOU. MDOE also described it reviews CSI plans based on its Title I, Part A Schoolwide Program Plan Requirements and Rubric and a checklist for communication between MDOE and LEAs regarding the allowability and allocability of items submitted in the ESEA section 1003 funding application.

MDOE's processes do not ensure that a CSI plan meets requirements. Specifically,

- Because neither the CNA template nor the MDOE's corresponding rubric indicate which sections of the CNA must be completed at the school-level by CSI schools, rather than the LEA-level, it is not clear how MDOE ensures a CSI plan meets requirements for a school-level needs assessment based on school-level data.
- Because MDOE does not require that the data analysis section in the CNA (or any other section for CSI plans) include school performance on State assessments required under Title I and on indicators used for Maine's accountability system under Title I, MDOE's processes do not ensure a school's CSI plan is informed by school-level performance on all indicators in the State's Title I accountability system, including student performance against State-determined long-term goals.
- It is not clear how MDOE ensures that non-Title I schools identified for CSI (due to low graduation rates) develop CSI plans.

MDOE's processes do not clearly ensure that each ATSI and TSI plan meets requirements. Specifically:

- Because neither the CNA template nor the MDOE's corresponding rubric indicate which sections must be completed at the school-level by TSI and ATSI schools, rather than the LEA-level, it is not clear how MDOE ensures a TSI or ATSI plan meets requirements for stakeholder involvement in plan development,
- Because MDOE does not require that the data analysis section in the CNA (or any other section for ATSI/TSI plans) include performance on State assessments required under Title I and on indicators used for Maine's accountability system under Title I for accountability subgroups,

MDOE's procedures do not ensure a school's TSI or ATSI plan is informed by the performance of the subgroups for which the school was identified on all indicators in the State's Title I accountability system, including student performance against State-determined long-term goals.

- MDOE's procedures do not ensure a school's TSI or ATSI plan is developed and implemented to improve student outcomes based on the indicators in the statewide accountability system for each subgroup of students for which the identification is based.
- Because the CNA template does not address use of evidence-based interventions, MDOE's procedures do not ensure a school's TSI or ATSI plan is Includes evidence-based interventions.
- For ATSI plans only, because the CNA template does not address identification of resource inequities, MDOE's procedures do not ensure a school's ATSI plan identifies resource inequities to be addressed through implementation of the plan.
- It is not clear how MDOE ensures that non-Title I schools identified for TSI and ATSI develop these plans.

#### Implementation of ATSI and TSI Plans

For each school identified for ATSI or TSI, the SEA must notify each LEA of a school served by the LEA of the identification. In addition, for each school identified for ATSI or TSI in an LEA, the LEA must:

- Notify the school;
- Approve the school's support and improvement plan prior to implementation of such plan; and
- Monitor the school's implementation of its support and improvement plan.  
(ESEA section 1111(d)(2)(A)-(C))

MDOE did not demonstrate that it had informed LEAs with schools identified for ATSI or TSI of requirements applicable to the LEAs and schools as a result of the identifications or that MDOE had taken steps to ensure that LEAs and schools met the requirements (i.e., that all ATSI schools implement ATSI plans and that LEAs are monitoring the implementation of ATSI plans in schools in the LEAs.)

#### Exit Criteria

CSI schools exit CSI status only by meeting State-defined exit criteria. (ESEA section 1111(d)(3)(A)(i)). ATSI schools exit ATSI status only by meeting State-defined exit criteria. (ESEA section 1111(d)(3)(A)(ii))

Because MDOE has changed the assessments it administers for ESEA Title I purposes, MDOE cannot implement the CSI exit criteria and ATSI exit criteria in its current approved ESEA consolidated State plan. In addition, MDOE's *Guide to Maine's Model of School Support* (p. 7) states that CSI schools are identified for a period of three years and does not clarify that a CSI school that does not meet the State-defined exit criteria remains identified and is subject to more rigorous State-determined action.

#### Resource Allocation

ESEA section 1111(D)(3)(A)(ii)-(iii) requires an SEA to periodically review resource allocation to support school improvement in each LEA in the State serving a significant number of schools identified for CSI and implementing ATSI and TSI plans (i.e., ATSI and TSI schools).

MDOE does not have a methodology for determining if an LEA serves a significant number of identified schools. MDOE has not yet developed procedures for or implemented periodic resource



allocation reviews to support school improvement in each LEA serving a significant number of identified schools. MDOE documented it considers school identification statuses as part of its risk assessments for MDOE's subrecipient monitoring. However, MDOE did not demonstrate that this process determines which LEAs in the State serve a significant number of identified schools or that the results are used to conduct resource allocation reviews for LEAs that serve a significant number of identified schools.

### Publicly Available School Plans

Under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), educational agencies and institutions are generally prohibited from disclosing personally identifiable information (PII) from students' education records without prior written consent. MDOE encourages LEAs to post CNAs for the LEA and its identified school(s) on the LEA and school websites. Due to the inclusion of student outcome and other data included in the CNAs to inform the needs assessments and school planning, the CNA may include data about small numbers of students. MDOE also has a *Public Reporting Data Suppression Policy* to support ensuring that personally identifiable information is not disclosed in data reporting and related activities in Maine. However, it is not clear that MDOE has communicated to LEA and school staff involved with CNAs that the public reporting data suppression policy may apply to data in the CNAs.

### **REQUIRED ACTION**

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

- Evidence that it has revised its template(s), instructions, and rubrics for reviewing CSI, ATSI, and TSI plans, including for CSI, ATSI and TSI schools that implement Title I targeted assistance programs or are not Title I schools, to address all applicable requirements. MDOE must make these revisions for CSI, ATSI and TSI plans for schools identified in fall 2023 based on data from the 2022-2023 school year. (*School-Level Plan Requirements*)
- Updated guidance regarding requirements for LEAs for ATSI and TSI schools and evidence that the guidance has been distributed to LEAs and schools. (*Implementation of ATSI and TSI Plans*)
- A plan and timeline for monitoring LEAs' implementation of ATSI and TSI plans and related requirements applicable to the LEA and ATSI and TSI schools in the LEA (see Overarching Subrecipient Monitoring Issue and Required Action). (*Implementation of ATSI and TSI Plans*)
- A request to amend its current approved ESEA consolidated State plan to define CSI and ATSI exit criteria that meet ESEA requirements. In addition, MDOE's must submit a revised *Guide to Maine's Model of School Support* that correctly states CSI exit criteria (i.e., states CSI schools may exit status only after demonstrating improve student achievement as defined in the State's approved ESEA consolidated State plan and which removes the statement that CSI schools are identified only for a period of three years, which is inconsistent with the ESEA). (*Exit Criteria*)
- With respect to the requirement to periodically reviewing the resource allocation in LEAs serving a significant number or percentage of identified schools:
  - The methodology MDOE will use for determining if an LEA serves a significant number of identified schools.
  - A plan and a timeline for implementing periodic resource allocation reviews, which must begin in the 2023-2024 school year, and consistent with the requirements in ESEA section 1111(d)(3)(A)(ii) (e.g., protocols, resources considered, LEA selection criteria, frequency of reviews, how results will be used) to support school improvement in each LEA serving a significant number of identified schools. The evidence must include a schedule for a first

cycle of resource allocation reviews. (*Resource Allocation*)

### **RECOMMENDATION**

The Department recommends MDOE implement steps to ensure student and educator PII is not disclosed as part of CNAs for LEAs and their schools during development or in cases where a school or LEA makes its CNA publicly available. (*Publicly Available School Plans*)

## 1003 SCHOOL IMPROVEMENT

## REQUIREMENT SUMMARY

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 and 1111(d)(1)-(2)

### ISSUE

ESEA section 1003 requires the SEA to conduct a rigorous review of 1003 school improvement funds to ensure that LEAs meet all requirements when using these funds. MDOE indicated that it reviews LEA reimbursements and conducts ongoing communication with LEAs regarding allowable uses of 1003 school improvement funds. However, MDOE does not have a specific monitoring schedule or protocol for evaluating these ESEA section funds.

ESEA section 1003(b)(2)(A) requires the SEA to establish a method for allocating 1003 school improvement funds that takes geographic diversity into account and ensures that LEA subgrants are of sufficient size and duration to enable the effective implementation of selected strategies. MDOE provided a spreadsheet that includes the allocation amounts for each school receiving 1003 school improvement funds. While MDOE indicated that it takes into account school size, special education population, socioeconomic status, and student population when determining 1003 school improvement fund allocations, it is unclear how these factors are included in its allocation amount formula calculations.

ESEA section 1003(f)(2)-(3) requires that an SEA's method of allocating section 1003 subgrants gives priority to LEAs that demonstrate the greatest need for section 1003 funds and demonstrate the strongest commitment to using 1003 funds to enable the lowest-performing schools to improve student achievement and student outcomes. It is unclear how MDOE considers these requirements when allocating section 1003 subgrants.

### REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must provide to the Department:

- A plan and timeline for monitoring LEA administration of ESEA section 1003 funds and applicable requirements (see Overarching Subrecipient Monitoring Issue and Required Action), including program implementation and allowable uses of funds. MDOE must provide evidence (e.g., monitoring schedule, monitoring protocol) that demonstrate it is ensuring compliance at the LEA- and school-levels with all requirements, consistent with its plan and timeline.
- Documentation regarding the State's formula for calculating allocation amounts for ESEA section 1003 school improvement funds, including how it considers geographic diversity and ensures that each LEA subgrant is of sufficient size.

- Evidence that MDOE gives priority to LEAs that demonstrate the greatest need for ESEA section 1003 funds and demonstrate the strongest commitment to using ESEA section 1003 funds to enable the lowest-performing schools to improve student achievement and student outcomes.

## STATE AND LOCAL REPORT CARDS

## REQUIREMENT SUMMARY

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

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

EDGAR 34 C.F.R. § 200.11

## ISSUE

MDOE does not have the following requirements available on its State and local report cards:

- **ESEA section 1111(h)(1)(C)(ii)** Student achievement data: Missing the number and percentage of children without disabilities and non-economically disadvantaged students (All levels).
- **ESEA section 1111(h)(1)(C)(vii)** Percentages of students assessed and not assessed in each subject. Missing children without disabilities and non-economically disadvantaged student data not assessed in each subject (All levels).
- **34 C.F.R. § 200.6(i)(1)(iii)** As applicable, number 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. MDOE indicated that this data is available on a confidential portal for LEAs. This information must be on State, LEA, and school-level report cards.
- **ESEA section 1111(h)(1)(C)(iii)(I)** Performance on the Other Academic indicator. Data is not disaggregated by student subgroups (All levels).
- **ESEA section 1111(h)(1)(C)(ix)** Educator qualifications. Data is not disaggregated by high- and low-poverty schools for any of the three educator data categories on State and LEA report cards.
- **ESEA section 1111(h)(1)(C)(xii)** State performance on the NAEP – mathematics and reading, grades 4 and 8. Data is not disaggregated by student subgroup. This information must be on State and LEA level report cards.
- **ESEA section 1111(h)(1)(C)(i)(V)** Number and names of all schools identified for CSI, TSI, and ATSI. While identification status is available on individual school report cards, this data is not available from either the State or LEA level report cards.
- **ESEA section 1111(h)(1)(C)(viii)(I-II)** CRDC data. Data for the number and percentage of students enrolled in accelerated coursework is available for all students, but this data is not disaggregated by the required student subgroups. Additionally, while CRDC data elements are report on report cards, the data source is not from the CRDC, nor is this data disaggregated by required student subgroups.
- **ESEA section 1111(h)(1)(C)(i)(VI)** Exit criteria established by the State for CSI schools and schools identified for ATSI, including the number of years after which, if the exit criteria are not satisfied, in the case of Title I schools, such schools will be identified for CSI. Exit criteria, which should be part of the required clear and concise description of MDOE’s accountability system, is

not available anywhere on State or local report cards.

- **ESEA section 1003(i)** Information on school improvement funds under ESEA section 1003 by LEA and school, including the names and schools receiving school improvement funds, the amount of funds received by each school, and types of strategies implemented in each school. No information is available on State report cards.

MDOE provided information that its State and local report cards can be translated into 132 different languages. During the desk review, MDOE indicated that a parent or family member with disabilities may download any report card and that its entire website follows all American with Disabilities Act (ADA) requirements. However, MDOE did not provide specific information regarding how it provides its report cards in a format that can be understood by parents and family members with disabilities.

## **REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must provide to the Department:

- Evidence (e.g., providing links to published report cards, screenshots, etc.) that State and local report cards for the 2021-2022 and 2022-2023 school years include all required report card elements, including:
  - The number and percentage of students at each level of achievement, for all students and disaggregated by all required subgroups, including children without disabilities and non-economically disadvantaged students. MDOE must also provide evidence for the percentages of students assessed and not assessed in each subject, including the percentages of children without disabilities and non-economically disadvantaged students not assessed.
  - The number 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.
  - Disaggregated data for the Other Academic indicator for elementary and secondary schools that are not high schools for all required subgroups and the information required in the description of the State’s accountability system.
  - Educator data, including information disaggregated by high- and low-poverty schools on the number and percentage of inexperienced teachers, principals, and other school leaders, teachers teaching with emergency or provisional credentials, and teachers who are not teaching in the field for which the teacher is certified for licensed.
  - State performance data on the NAEP – reading and mathematics, grades 4 and 8, disaggregated by required student subgroups.
  - The number and names of all schools identified for CSI, ATSI, and TSI.
  - Civil Rights Data Collection (CRDC) data, disaggregated by required student subgroups.
  - A list of each LEA and school receiving ESEA section 1003 school improvement funds, including the amount of funds received by each school and types of strategies implemented in each school.
  - Exit criteria established by the State for CSI, and ATSI schools, including the number of years after which, if the ATSI exit criteria are not satisfied, in the case of Title I schools, such schools will be identified for CSI.
- Evidence (e.g., accessibility statement or guide) that it provides its report cards in a format that can be understood by parents and family members with disabilities.

## SCHOOLWIDE PROGRAMS

## REQUIREMENT SUMMARY

A Title I schoolwide program is a comprehensive reform strategy designed to upgrade the educational program of a Title I school in order to improve the achievement of the lowest-achieving students. An LEA may operate a schoolwide program in a Title I school with 40 percent or more of its students living in poverty. In addition, an SEA has discretion to grant a waiver to allow an LEA to operate a schoolwide program without meeting the 40 percent poverty threshold if the SEA has determined that a schoolwide program will best serve the needs of low-achieving students in the school. A school implementing a Title I schoolwide program must conduct a comprehensive needs assessment of the entire school, prepare a comprehensive schoolwide plan, and regularly review the schoolwide plan. To better leverage all available funding, a schoolwide program school has the flexibility to consolidate funds from Title I and other Federal educational programs with State and local funds. To support the effective implementation of schoolwide programs, States must eliminate or modify State and local fiscal accounting requirements so that LEAs can consolidate funds under schoolwide programs.

ESEA §§ 1114, 1603(a), and 1111(g)

EDGAR 34 C.F.R. §§ 200.25-200.29

## ISSUE

### School-Level Plan Requirements - Schoolwide Program Plans (ESEA section 1114(b))

Each school operating a schoolwide program shall develop (or, as applicable, amend) a comprehensive schoolwide plan that:

- Is developed with the involvement of parents and other stakeholders;
- Is based on a comprehensive needs assessment of the entire school that takes into account information on the academic achievement of children in relation to the challenging State academic standards, particularly the needs of those children who are failing, or are at-risk of failing, to meet the challenging State academic standards and any other factors as determined by the LEA;
- Includes a description of the strategies that the school will implement to address school needs, including a description of how such strategies will:
- Provide opportunities for all children, including each subgroup of students, to meet the challenging State academic standards;
- Use methods and instructional strategies that strengthen the academic program in the school, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum;
- Address the needs of all children in the school, but particularly the needs of those at risk of not meeting the challenging State academic standards; and

- Addresses all other requirements in ESEA section 1114(b).

MDOE's processes do not clearly ensure that each schoolwide program plan meets requirements. Specifically:

- Because MDOE does not require that the data analysis section in the CNA (or any other section for schoolwide plans) include consideration of the performance of the lowest-achieving students, MDOE's processes do not ensure each schoolwide program plan is developed based on a CNA that takes into account the needs of children who are failing or at-risk of failing to meet challenging State academic standards,
- Because the CNA only requires an LEA to list "possible action steps" it may take, MDOE's processes do not ensure each schoolwide program plan includes a description of the strategies the school will implement to address school needs as outlined in ESEA section 1114(b)(7)(a).

#### Schoolwide Programs - Teachers and Paraprofessionals

Under ESEA sections 1111(g)(2)(J) and 1112(c)(6), an SEA and its LEAs must ensure that all teachers and paraprofessionals working in a Title I program meet applicable State certification and licensure requirements.

MDOE described that it addresses this requirement as part of its LEA application/plan reviews and performance report process. However, MDOE's template for LEA application/plans does not require information regarding the certification status of Title I teachers and paraprofessionals. MDOE's LEA performance report template requires information on the number of Title I paraprofessionals in schoolwide program and targeted assistance program schools that meet State certification requirements but does not require similar information regarding Title I teachers.

#### Schoolwide Programs – External Providers

MDOE does not have written information or guidance for LEAs and schools regarding the provision that allows delivery of services for schoolwide programs by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement. (ESEA section 1114(d))

#### Monitoring – Subrecipient Monitoring for Schoolwide Programs

An SEA as a pass-through entity is responsible for monitoring the activities of subrecipients to ensure that subawards are used only for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and to ensure that subaward performance goals are achieved. An SEA has the discretion to design its own subrecipient monitoring processes for both fiscal and programmatic elements of program administration. However, an SEA must ensure that its subrecipient monitoring activities are sufficient to provide reasonable assurance that subrecipients are administering programs in compliance with all applicable requirements (both programmatic and fiscal) and that the SEA is able to evaluate progress towards the accomplishment of performance goals. (Uniform Guidance §200.332(d))

MDOE did not demonstrate it has a post-award monitoring process sufficient to ensure compliance with program requirements, including schoolwide program requirements, through either program-specific monitoring or consolidated monitoring.



### Waivers – Schoolwide Programs

An SEA may grant a waiver to allow a Title I school to operate a schoolwide program without meeting the 40 percent poverty threshold if the SEA has determined a schoolwide program will best serve the needs of academically at-risk students in the school. (ESEA section 1114(a)(1)(B)).

While Maine described its process for determining whether to grant a waiver to permit a Title I school in which less than 40 percent of children are from low-income families to operate a schoolwide program, documentation of its process appears to be limited.

### **REQUIRED ACTION**

See related Issue and Required Action for School-level Plan Requirements in Support for School Improvement Section.

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

- Documentation of the procedures it will use for the 2023-2024 school year and future years to ensure that LEAs ensure that all teachers in a Title I schoolwide and targeted assistance program meet applicable State certification and licensure requirements. (*Schoolwide Programs – Teachers and Paraprofessionals*)
- A plan and timeline for monitoring the implementation of schoolwide and targeted assistance programs and applicable requirements (see Overarching Subrecipient Monitoring Issue and Required Action). (*Monitoring – Subrecipient Monitoring for Schoolwide Programs and Monitoring – Subrecipient Monitoring for Targeted Assistance Programs*)
- Evidence that it has revised its template(s), instructions, and rubrics for reviewing schoolwide program plans to include all applicable requirements, including the following elements:
  - Is based on a comprehensive needs assessment of the entire school that takes into account information on the academic achievement of children in relation to the challenging State academic standards, particularly the needs of those children who are failing, or are at-risk of failing, to meet the challenging State academic standards and any other factors as determined by the LEA; and
  - Includes a description of the strategies the school will implement to address school needs. (*School-Level Plan Requirements*)

### **RECOMMENDATION**

The Department recommends that MDOE:

- Include in its written information or guidance for LEAs and schools information about the provision in ESEA section 1114(d) that allows delivery of services for schoolwide programs by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement. (*Schoolwide Programs – External Providers*)

Establish procedures for documenting its review of requests to waive the 40 percent threshold to allow a school to operate a Title I schoolwide program, including how MDOE considers whether a schoolwide program will best serve the needs of the students in the school served under Title I, Part A (e.g., standard operating procedure to document the use of MDOE’s schoolwide program plan requirements and rubric in reviewing requests, a checklist of criteria for reviewing waiver

requests, and/or standard language for letters approving or disapproving waiver requests that provides the rationale for the decision. (*Waivers – Schoolwide Programs*)

## TARGETED ASSISTANCE PROGRAMS

## REQUIREMENT SUMMARY

A Title I targeted assistance program is a strategy in schools receiving funding under Title I Part A that serve eligible children identified as having the greatest need for special assistance in order for those children to meet the challenging State academic standards. A school implementing a Title I targeted assistance program must serve participating students by using resources to help eligible children meet the challenging State academic standards, use methods to strengthen the academic program to the school, and coordinate with and support the regular education program.

ESEA § 1115

## ISSUE

### Targeted Assistance School Programs - Teachers and Paraprofessionals

Under ESEA sections 1111(2)(J) and 1112(c)(6), an SEA and its LEAs must ensure that all teachers and paraprofessionals working in a Title I program meet applicable State certification and licensure requirements, MDOE described that it addresses this requirement as part of its LEA application/plan reviews and performance report process. However, MDOE's template for LEA applications/plans does not require information regarding the certification statuses of Title I teachers and paraprofessionals. MDOE's LEA performance report template requires information on the number of Title I paraprofessionals in schoolwide program and targeted assistance program schools that meet State certification requirements but does not require similar information regarding Title I teachers.

### Monitoring – Subrecipient Monitoring for Targeted Assistance Programs

An SEA as a pass-through entity is responsible for monitoring the activities of subrecipients to ensure that subawards are used only for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward, and to ensure that subaward performance goals are achieved. An SEA has the discretion to design its own subrecipient monitoring processes for both fiscal and programmatic elements of program administration. However, an SEA must ensure that its subrecipient monitoring activities are sufficient to provide reasonable assurance that subrecipients are administering programs in compliance with all applicable requirements (both programmatic and fiscal) and that the SEA is able to evaluate progress towards the accomplishment of performance goals. (Uniform Guidance §200.332(d))

MDOE did not demonstrate it has a post-award monitoring process sufficient to ensure compliance with program requirements, including targeted assistance program requirements, through either program-specific monitoring or consolidated monitoring.

### Targeted Assistance School Programs – Compliance with Assurances

A school operating targeted assistance program and its LEA must address certain requirements,

including that the school will:

- Help provide an accelerated, high-quality curricula; (ESEA section 1115(b)(2)(G)(i))
- Minimize the removal of children from the regular classroom during regular school hours for instruction; (ESEA section 1115(b)(2)(G)(ii))
- On an ongoing basis, review the progress of eligible children and revise the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the challenging State academic standards; and (ESEA section 1115(b)(2)(G)(iii))
- Establish multiple, educationally related, objective criteria to identify children in grades 3 and above as failing or most at-risk of failing to meet the challenging State academic standards and criteria, including objective criteria, to identify children from preschool through grade 2. (ESEA section 1115(b)(2)(G))

MDOE’s self-assessment indicates it addresses these requirements for targeted assistance program project plans as part of its ESEA consolidated applications review and approval process. However, the template for the sample application page submitted by MDOE does not address these requirements. The sample LEA performance reports also do not address these requirements for schools.

#### **REQUIRED ACTION**

See Required Action for Schoolwide Programs - Teachers and Paraprofessionals under Schoolwide Programs section above. (*Targeted Assistance School Programs - Teachers and Paraprofessionals*)

See Required Action for Monitoring – Subrecipient Monitoring for Schoolwide Programs and Monitoring – Subrecipient Monitoring for Targeted Assistance Programs in the Schoolwide Programs section above. (*Monitoring – Subrecipient Monitoring for Targeted Assistance Programs*)

Within 60 business days of receiving this report, MDOE must submit to the Department evidence of the revised procedures it will use to ensure a school operating a targeted assistance program meets the requirements of ESEA section 1115 (e.g., revised application template, MDOE rubric for reviewing applications, school performance report template, MDOE rubric for reviewing performance reports, and/or monitoring protocols and procedures). MDOE also must submit evidence that it has communicated to its LEAs and schools the revised procedures it will use to ensure a school operating a targeted assistance program meets the requirements. (*Targeted Assistance School Programs – Compliance with Assurances*)

## PARENT AND FAMILY ENGAGEMENT

## REQUIREMENT SUMMARY

An LEA that receives Title I, Part A funds must notify parents that they may request information on teacher and paraprofessional qualifications. Additionally, an LEA must provide parents with information regarding student academic achievement and growth, testing transparency, information regarding the State or LEA policy for student participation in any assessments and additional information. An LEA receiving Title I funds must also conduct outreach to parents and family members and implement parent and family programs and activities, which must be planned and implemented in consultation with parents. An SEA must collect and disseminate to LEAs effective parent and family engagement strategies.

ESEA §§ 1111(g)(2)(F), 1112(e), 1116, and 8101(39)

## ISSUE

MDOE’s consultant checklist of the LEA consolidated application includes a review of the “Family Engagement Project.” The application requires the LEA to provide a narrative regarding the parent and family engagement activities implemented in the LEA. MDOE reviews the LEA response on an annual basis but did not indicate or provide evidence of how its review ensures the specific requirements in ESEA section 1116(a)(2) are being met, including the requirement for a written policy and the involvement of parents and family members in the development of that policy.

During its monitoring process, MDOE asks the LEA to provide evidence that the LEA communicated its parent and family engagement policies in a language that the parents understand. However, MDOE does not specifically monitor how an LEA’s policies and practices ensure the participation of parents and family members with disabilities.

MDOE indicated that it uses a consultant checklist to review the parent and family engagement portion of an LEA’s consolidated application and performance report. It was unclear from this checklist how MDOE ensures that an LEA carries out activities and strategies consistent with its parent and family engagement policy and allowable uses of funds.

## REQUIRED ACTION

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

- Evidence (e.g., updated consultant checklist) for how, during its review of LEA parent and family engagement activities, it ensures all requirements in ESEA section 1116(a)(2) are being met, including the requirement for a written Title I parent and family engagement policy and the involvement of parents and family members in the development of this policy.
- A plan and timeline detailing how it will ensure that LEAs receiving Title I, Part A funds are reducing barriers and providing opportunities for the participation of all parents and family

members in Title I, Part A parent and family engagement activities, including parents and family members with disabilities.

- Evidence (e.g., a monitoring protocol) for how it will ensure that an LEA carries out activities and strategies consistent with the LEA's Title I, Part A parent and family engagement policy and allowable uses of funds (see Overarching Subrecipient Monitoring Issue and Required Action).

## **OTHER TITLE I REQUIREMENTS – EARLY CHILDHOOD EDUCATION SUPPORT AND COORDINATION**

## **REQUIREMENT SUMMARY**

As applicable, each LEA receiving Title I funds shall coordinate activities with Head Start agencies and, if feasible, other entities carrying out early childhood development programs. Additionally, each LEA must support, coordinate, and integrate Title I services with early childhood education programs at the LEA or individual school level, including plans for the transition of participants in such programs to local elementary school programs.

ESEA §§ 1112(b)(8), 1113(c)(5), 1114(b)(7)(iii)(v), 1115(b)(2)(C), and 1119

### **ISSUE**

While MDOE requires LEAs to indicate they will comply with ESEA Title I, Part A assurances, the Department did not see evidence that it has a process to ensure that an LEA has developed agreements with Head Start agencies and/or similar entities carrying out early childhood education programs to carry out the activities in ESEA section 1119(b) to increase coordination between the LEA and Head Start agency.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must provide evidence for how it will ensure that an LEA develops agreements with a Head Start agency(s) to increase coordination between the LEA and the agency and/or similar entities carrying out early childhood education programs, and that the LEA carries out the requirements in ESEA section 1119(b) to increase the coordination between the LEA and the Head Start agency.

## **OTHER TITLE I REQUIREMENTS – COMMITTEE OF PRACTITIONERS**

## **REQUIREMENT SUMMARY**

The State educational agency has involved the committee of practitioners established under section 1603(b) in developing the plan and monitoring its implementation.

ESEA §§ 1111(g)(2)(L) and 1608(b)

## **ISSUE**

MDOE has not had a committee of practitioners (CoP) since fiscal year 2020. The CoP is required under ESEA section 1608(b). MDOE indicated that it is working with a coordinator to restart its CoP, with its first meeting expected to convene this winter.

## **REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must submit a plan and timeline detailing how it will reestablish a CoP that meets the requirements of ESEA section 1608(b).



## OTHER TITLE I REQUIREMENTS – EDUCATOR EQUITY

## REQUIREMENT SUMMARY

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

ESEA §§ 1111(g) and 1112

## ISSUE

Question 4h on page 11 of MDOE's CNA asks the LEA to describe how it will identify and address any disparity that results in economically disadvantaged students or minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers. However, the CNA is not sufficient to meet the requirements in ESEA section 1111(g)(1)(B). The response that MDOE requires from LEAs does not indicate how the school will address any identified disparities. It is not clear how MDOE monitors each LEA that receives Title I, Part A funds to ensure that the LEA addresses these disparities.

While MDOE reports data on ineffective, out-of-field, and inexperienced teachers on its State and local report cards, it did not provide evidence that MDOE evaluates and publicly reports the progress toward ensuring that low-income and minority children in Title I schools are not served at disproportional rates.

## REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must provide to the Department:

- Evidence for how it will ensure that each LEA receiving Title I, Part A funds is addressing any disparity that results in economically disadvantaged students or minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teacher.
- A plan and timeline detailing how it will address and publicly report its progress toward ensuring that low-income and minority children in Title I, Part A schools are not serviced at disproportionate rates by ineffective, out-of-field, and inexperienced teachers.

## Title I, Part C

### PROVISION OF SERVICES

### REQUIREMENT SUMMARY

An SEA is required to ensure that the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, are identified. The SEA's written comprehensive State plan for service delivery must be based on a current statewide needs assessment. An SEA is required to identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan for service delivery. The comprehensive State plan must be developed in collaboration with parents of migratory children and the SEA must ensure that its LOAs comply with the plan. Title I, Part C programs and projects must address the unmet education needs of preschool migratory children and migratory children who have dropped out of school. The SEA must also ensure that Title I, Part C programs and projects provide for outreach activities for migratory children and their families to inform such children and families of other education, health, nutrition, and social services to help connect them to such services. The SEA must encourage Title I, Part C programs and projects to offer family literacy services if the program or project serves a substantial number of migratory children whose parents do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

Priority for Services: In providing Title I, Part C-funded services, priority must be given to migratory children who have made a qualifying move within the previous 1-year period and who— (1) are failing, or most at risk of failing, to meet the challenging State academic standards; or (2) have dropped out of school. Continuation of Services: A child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term; a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

ESEA §§ 1306(a), 1304(b)(1), 1304(b)(6), 1304(c)(4), 1304(c)(6), 1304(d), and 1304(e)

EDGAR 34 CFR § 200.83

### ISSUE

MDOE last conducted a comprehensive needs assessment (CNA) in the spring of 2017. When asked about the large gap in time since conducting the last CNA, the MDOE State Director stated that the

MDOE Program Manual, updated in March 2023, does contain information about performing needs assessments and goal setting. However, the document only provides a general overview of the requirement for MEP staff to conduct meetings with families and students, as well as teachers and school staff, to discuss students' educational goals and challenges to understand the needs of the students and families. There was no evidence presented that a Statewide CNA was performed after spring 2017. Further, MDOE's comprehensive State service delivery plan, last updated in December 2019, is based on the 2017 CNA. Reviewers noted outdated information in the service delivery plan, such as measurable program objectives and outcomes (MPOs) with targets ending in 2020-21.

During interviews, MDOE staff discussed changes in the needs of migratory children since the 2017 CNA, especially in light of the COVID-19 pandemic. The SEA's 2017 CNA cannot reasonably be considered current if it does not reflect the present needs of the State's migratory children. Similarly, the Statewide service delivery plan upon which the CNA is based must be reviewed and updated to ensure the State is addressing the current needs of migratory children.

### **REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must submit to the Department a plan (i.e., key strategies, stakeholders, and timeline) to conduct a Statewide CNA that reflects the current needs of migratory children in Maine, and an updated Statewide plan for service delivery that is based on the current CNA.

This finding will be considered resolved when MDOE submits its updated Statewide plan for service delivery that includes and is based on the updated Statewide CNA. Such documentation must be submitted when finalized by the State, but no later than one year from the date of this report.

## MIGRANT STUDENT INFORMATION EXCHANGE

## REQUIREMENT SUMMARY

A State educational agency (SEA) is required to use and require each of its local operating agencies (LOAs) to use, the Migrant Student Information Exchange (MSIX) in a manner that comports with regulatory requirements, including timelines for data submissions.

ESEA §§ 1304(b)(3) and 1308(b)(2)

EDGAR 34 C.F.R. § 200.85

## ISSUE

OME reviewers used the MSIX data completeness, data quality, and assessment reports to assess the accuracy and completeness of data submitted to MSIX by MDOE. MDOE is not using the most up-to-date MSIX MDE List (v. 11, approved October 2019) to report assessment types 09 (State Mathematics Assessment) and 10 (State Reading/Language Arts Assessment) for MDE 52, and the data for those values are missing in MSIX. The State is not submitting any data for MDE 63 (Clock Hours). Therefore, OME reviewers concluded that MDOE is not submitting complete data to MSIX.

## REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must submit to the Department in MSIX:

Data for Assessment Type (MDE 52) that includes State assessment data under values 09 and 10; and data for Clock Hours (MDE 63) for migratory children enrolled in school in Maine during the 2022-2023 school year. OME will run an MSIX Data Completeness report and an MSIX Assessment report to verify these data have been submitted.

## Title II, Part A

### PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: SEA-LEVEL FUNDS

### REQUIREMENT SUMMARY

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

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

### ISSUE

Section 2101(d)(2)(K) of the ESEA requires States to “use data and ongoing consultation” to “continually update and improve the activities supported” by Title II, Part A funds. While MDOE did conduct a survey in 2019, the results of which have governed the use of State-level Title II, Part A funds for the past several years, it has not subsequently re-administered the survey, raising concerns that the needs identified in 2019 may no longer accurately reflect the current situation in the State. MDOE must engage in “ongoing” consultation in order to continually improve its program. In addition, the recipients of the 2019 survey did not include all stakeholder groups that section 2101(d)(3)(A) requires be included in required consultation on the uses of Title II, Part A funds: “teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a State that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of this title.” Survey recipients did not include paraprofessionals, parents, or community partners.

### REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must provide the Department a plan and a timeline for how it will engage in ongoing consultation with all stakeholder groups required by section 2101(d)(3)(A) in order to “continually update and improve the activities supported” with State-level Title II, Part A funds, as required under section 2101(d)(2)(K).

## PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: SEA-LEVEL FUNDS

### REQUIREMENT SUMMARY

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

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

### ISSUE

When an SEA uses State-level Title II, Part A funds for professional development activities, the SEA must ensure that these activities meet the statutory definition of professional development in section 8101(42) of the ESEA, which requires that professional development be sustained, intensive, collaborative, job-embedded, data-driven, and classroom-focused.

MDOE uses a competitive process to award State-level Title II, Part A funds to offices at MDOE that wish to offer professional development activities. In the fiscal years covered by the monitoring visit, MDOE was not in full compliance with the professional development definitions because it was not ensuring that all professional development funded with State-level Title II, Part A funds fully met the statutory professional development definition. MDOE did not provide evidence that fulfillment of this definition was part of its discussions with applicants proposing to use State-level Title II, Part A funds for professional development or that funded projects fully met the definition.

### REQUIRED ACTION

While MDOE was not in compliance with this provision in the years covered by the monitoring review, subsequent to the monitoring visit, MDOE provided an updated version of the technical assistance materials it is using in discussion with applicants who propose to use State-level Title II, Part A funds for professional development. These technical assistance materials have been revised to include a discussion of the professional development definitions, ensuring that applicants will need to address the definition as part of the funding process and ensure that MDOE is now in compliance with this requirement. No additional action is required at this time.

## PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: LEA-LEVEL FUNDS

### REQUIREMENT SUMMARY

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

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

### ISSUE

Section 2102(b)(2)(C) of the ESEA requires LEAs to “prioritize [Title II, Part A] funds to schools served by the agency that are implementing comprehensive support and improvement activities and targeted support and improvement activities under section 1111(d) and have the highest percentage of children counted under section 1124(c).”

MDOE and the LEAs interviewed about the implementation of Title II, Part A indicated that LEA-level Title II, Part A expenditures must be tied to identified goals in an LEA’s CNA. While schools identified for improvement receive services through the Title I school improvement set aside, there is nothing in the CNA process that directs LEAs to prioritize identified schools when considering how to spend Title II, Part A funds. Similarly, there is no step in the CNA process that requires a particular focus of Title II, Part A spending on children counted under ESEA section 1124(c). Both LEAs interviewed indicated that they concentrate on the needs of “all” students in the CNA process, not on the needs of specific groups of children or on specific schools.

### REQUIRED ACTION

Within 60 business days of receipt of this report, MDOE must provide a plan and a timeline for ensuring that LEAs prioritize the needs of schools that are implementing comprehensive support and improvement activities and targeted support and improvement activities under ESEA section 1111(d), if any, and schools that have the highest percentage of children counted under ESEA section 1124(c) when making decisions about how to use Title II, Part A program funds.

## PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: LEA-LEVEL FUNDS

### REQUIREMENT SUMMARY

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

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

### ISSUE

When LEAs use Title II, Part A funds for activities authorized under the ESEA for which an evidence base is required, such as class-size reduction or professional development (sections 2103(a)(3)(D), (E), and (P)), the SEA must ensure that these activities are evidence-based to the degree that such evidence is available. MDOE has recently begun asking LEAs that wish to use program funds for class-size reduction to provide evidence of effectiveness, but it is not clear how or if MDOE intends to monitor to ensure that class-size reduction is being used in an evidence-based manner.

Regarding professional development funded with LEA-level Title II, Part A funds, MDOE indicated that it discusses the evidence base for professional development with LEAs during the application process but provided no evidence that it systematically ensures, such as through questions in the application for funds, that all professional development interventions selected by LEAs and funded with Title II, Part A funds are evidence-based, to the extent that such an evidence base is available. LEAs interviewed during the monitoring visit indicated that the MDOE does not typically ask them to demonstrate that professional development funded with Title II, Part A funds is evidence-based either in the application for funds or in monitoring.

### REQUIRED ACTION

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

1. Evidence that MDOE ensures that all activities funded with LEA-level Title II, Part A funds for which an evidence base is required are evidence-based; or
2. If such evidence is not available, a plan and a timeline for how the State will ensure, through the application for funds, through monitoring, or by other means, that all activities funded with LEA-level Title II, Part A funds for which an evidence base is required are evidence-based.



## PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: LEA-LEVEL FUNDS

## REQUIREMENT SUMMARY

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

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

## ISSUE

ESEA section 8101(42) defines professional development as sustained, intensive, collaborative, job-embedded, data-driven, and classroom-focused. When LEAs use Title II, Part A funds for professional development activities authorized under ESEA section 2103(b)(3) that are required to conform to the professional development definition, the SEA must ensure that these activities meet the statutory definition of professional development. Regarding professional development funded with LEA-level Title II, Part A funds, MDOE indicated that it discusses the professional development definition with LEAs during the application process but provided no evidence that it systematically ensures, such as through questions in the application for funds, that all professional development interventions selected by LEAs and funded with Title II, Part A funds meet the statutory professional development definition. LEAs interviewed during the monitoring visit indicated that the professional development definition has not been a topic of regular discussion with MDOE.

After the monitoring call, MDOE provided an “ESEA Monitoring Factsheet” that indicates that LEAs must conform to the statutory professional development definition when selecting professional development interventions to be funded with Title II, Part A program funds, but it is not clear how this document will be used as part of the State’s subgrantee monitoring process or how many LEAs would be expected to provide documentation during monitoring about conformity of selected professional development interventions to the statutory definition. Findings from the Department’s most recent Title II, Part A use of funds survey suggest that many LEAs in Maine use Title II, Part A funds for short-term professional development, which may not comply with the statutory definition of professional development if it is not part of a larger professional development plan that fully meets statutory requirements.

**REQUIRED ACTION**

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

1. Evidence that MDOE ensures that all professional development activities funded with LEA-level Title II, Part A funds meet the statutory professional development definition in ESEA section 8101(42); or
2. If such evidence is not available, a plan and a timeline for how the State will ensure, through the application for funds, through monitoring, or by other means, that all professional development activities funded with LEA-level Title II, Part A funds meet the statutory professional development definition in ESEA section 8101(42).

## Title III, Part A

### STANDARDIZED STATEWIDE ENTRANCE AND EXIT PROCEDURES

### REQUIREMENT SUMMARY

States are required to have standardized statewide entrance and exit procedures for English learners.

ESEA §§ 1111(b)(2)(G) and 3113(b)(2)

### ISSUE

Section 3113(b)(2) of the ESEA requires an SEA to “establish and implement...standardized, statewide entrance and exit procedures [for English learners].”

During the monitoring interview, MDOE acknowledged that the standardized statewide entrance and exit procedures included in its current ESEA consolidated State plan do not reflect the standardized statewide entrance and exit procedures that MDOE is currently implementing, and that it plans to submit an amendment to its consolidated State plan to address these inconsistencies.

Some of the entrance and exit procedures presented in MDOE’s document, [Serving Maine’s English Learners Policy and Resource Guide](#), are inconsistent with guidance provided elsewhere by the SEA. For example, this document lists Kindergarten W-APT and Kindergarten Model as the EL screeners for kindergarten and the start of 1st grade, while other MDOE documents list the WIDA Screener for Kindergarten as the EL screener for this same grade band. During the monitoring interview, MDOE acknowledged that this document is outdated.

### REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must submit to the Department a request to amend its current approved ESEA consolidated State plan to address the inconsistencies in the Maine consolidated State plan regarding MDOE’s current standardized statewide entrance and exit procedures for English learners.

To address the required action, MDOE should refer to the Department’s procedures for amending the State plan, which are available at: <https://oese.ed.gov/files/2020/02/csso-letter.pdf>.

### RECOMMENDATION

The Department recommends that MDOE remove references to the outdated document, [Serving Maine’s English Learners Policy and Resource Guide](#), wherever it appears, including in guidance documents, and notify LEAs to remove such references as well.

## TITLE III, PART A FORMULA GRANT SUBAWARDS AND IMMIGRANT SUBGRANT AWARDS

### REQUIREMENT SUMMARY

The SEA must allocate Title III, Part A subgrants for a fiscal year to each eligible entity in the State having a plan approved under section 3116. The SEA shall not award a Title III, Part A subgrant if the amount of such subgrant would be less than \$10,000. ESEA §§ 3114(a), 3114(b)

The SEA must reserve no more than 15 percent of its Title III grant to award at least one subgrant to one or more eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth in public and nonpublic elementary schools and secondary schools in geographic areas served by the entities.

ESEA §§ 3114(d), 3115(e) (1), and 3201(3)

### ISSUE

Under ESEA section 3114, each SEA is required to award Title III part A funds to “each eligible entity” based on the proportion of ELs in that eligible entity, except that an SEA may not award a subgrant to an eligible entity if the amount of such subgrant would be less than \$10,000.

Section 3201(3) of the ESEA defines the term eligible entity as “(A) one or more local educational agencies; or (B) one or more local educational agencies, in consortia or collaboration with an institution of higher education, educational service agency, community-based organization, or State educational agency.” Thus, LEAs that would not, on their own, meet the \$10,000 minimum threshold for a Title III subgrant may, under this section, form a consortium that would be eligible to receive a Title III subgrant.

Consortia are also eligible for immigrant children and youth subgrants under ESEA section 3114(d).

MDOE indicated in its self-assessment and confirmed during the monitoring interview that it only awards Title III, A formula subgrants and immigrants subgrants to individual LEAs and not to Title III consortia. MDOE further acknowledged that it has not provided guidance to LEAs to make them aware of the opportunity to form or join a Title III consortium, although it indicated that it has started laying the groundwork for such guidance.

### REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must provide evidence that it has communicated to LEAs regarding the opportunity to form or join a Title III consortium for the purposes of Title III, Part A formula subgrants under ESEA section 3114(a) and the immigrant subgrant under ESEA section 3114(d).

## SUPPLEMENT NOT SUPPLANT

## REQUIREMENT SUMMARY

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, Part A funds be used to supplement, and not supplant, 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 (ELs) and immigrant children and youth.

One LEA that participated in the monitoring review acknowledged during the monitoring interview that it uses Title III, Part A funds for professional development courses that can count towards the State-required English for Speakers of Other Languages (ESOL) endorsement/certificate. The LEA explained that it uses Title III, Part A funds for professional development courses for ESOL teachers working towards their ESOL certificate in addition to other teachers of ELs. Title III funds may be used only for supplemental professional development activities, such as for courses not required by State-mandated certifications/endorsements.

## REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must submit either:

- Evidence that guidance has been provided to LEAs on the supplement, not supplant requirements under ESEA section 3115(g) that includes guidance on endorsements or certifications that are mandatory and, as such, cannot be funded out of Title III, Part A funds; or
- If such evidence is not available, a plan and a timeline for providing such guidance, including evidence that such guidance has been disseminated to all LEAs receiving Title III, Part A funds.

## ACTIVITIES BY AGENCIES EXPERIENCING SIGNIFICANT INCREASES IN IMMIGRANT CHILDREN AND YOUTH

## REQUIREMENT SUMMARY

The SEA must reserve no more than 15 percent of its Title III grant to award at least one subgrant to one or more eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth in public and nonpublic elementary schools and secondary schools in geographic areas served by the entities.

ESEA §§ 3114(d), 3115(e)(1), and 3201(3)

### ISSUE

Section 3114(d) of the ESEA requires that an SEA “(1) shall reserve not more than 15 percent of the agency’s allotment under section 3111(c)(2) to award subgrants to eligible entities in the State that have experienced a significant increase... in the percentage or number of immigrant children and youth...” and that the SEA “shall equally consider eligible entities that satisfy the requirement of [an increase in immigrant children and youth] but have limited or no experience in serving immigrant children and youth.”

Section 3201(5) of the ESEA defines the term “immigrant children and youth” as “individuals who —  
(A) are aged 3 through 21;  
(B) were not born in any State; and  
(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.”

Further, section 3201(13) of the ESEA defines the term “State” to mean the following in the context of Title III, Part A of the ESEA: “Each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.”

MDOE’s definition of immigrant children and youth as used in the context of ESEA section 3114(d) immigrant subgrants is inconsistent with the ESEA definition of immigrant children and youth in ESEA section 3201(5). Specifically, MDOE’s definition of immigrant children and youth is based on the number of years enrolled in a Maine LEA, as opposed to the number of years attending schools in any one or more of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Additionally, during the monitoring interview, MDOE explained its process for determining which LEA or LEAs have experienced a significant increase in immigrant children and youth and will receive the ESEA section 3114(d) immigrant subgrant(s). However, MDOE has not posted its definition of significant increase, as used in the context of the ESEA section 3114(d) immigrant subgrant(s), for the awareness of Maine LEAs.

**REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must submit evidence that it has provided guidance to LEAs on the definition of immigrant children and youth, consistent with ESEA sections 3114(d) and 3201(5), that it will use for the purpose of awarding ESEA 3114(d) immigrant subgrants as well as for the purpose of reporting EDFacts data related to immigrant children and youth to the Department.

**RECOMMENDATION**

The Department recommends that MDOE communicate to LEAs its definition of significant increase, as used in the context of the ESEA section 3114(d) immigrant subgrants, for the awareness of Maine LEAs.

## PARENTAL NOTIFICATION

## REQUIREMENT SUMMARY

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.

ESEA §§ 1112(e)(3)(A)–(B)

## ISSUE

ESEA sections 1112(e)(3)(A)–(B) requires that each LEA that uses Title I or Title III funds to provide a language instruction educational program (LIEP) must provide a notification to parents of ELs that contains specific information. ESEA section 1112(e)(3)(A)(viii) requires that the notification include information about parental rights, which must be provided in writing, including the right to opt their child out of LIEPs or to choose another program or method of instruction, if available.

The sample parent notifications provided by one LEA that participated in the monitoring review did not detail the parental right to opt their child out of LIEPs or to choose another program or method of instruction, if available.

## REQUIRED ACTION

Within 60 business days of receiving this report, MDOE must submit either:

- Evidence that guidance has been provided to LEAs on the parental notification requirements under ESEA sections 1112(e)(3)(A)–(B), including the requirements in ESEA section 1112(e)(3)(A)(viii) related to parental rights to opt out of an LIEP or to choose another program or method of instruction, if available; or
- If such evidence is not available, a plan and a timeline for providing and disseminating such guidance to all LEAs.



## DATA QUALITY

## REQUIREMENT SUMMARY

An SEA is required to have appropriate procedures in place to ensure that the data reported to the public and the U.S. Department of Education are high quality (i.e., timely, complete, accurate, valid, and reliable).

ESEA §§ 1111(h) (5), 8101(23) and (25), 8303, and 8304 (a) (6) (A)

EDGAR 34 C.F.R. §§ 76.720 and 76.770

Government Accountability Office's "Standards for Internal Control in the Federal Government"

Uniform Guidance 2 C.F.R. §§ 200.303 and 200.328 (b)

## ISSUE

For school year 2020-21, file specification (FS) 141 section 2.5, Data Reporting Guidelines, includes the following information:

### **Which students should be reported in this file?**

Report English learners [(ELs)] enrolled in elementary and secondary schools (see data group definition in Section 1.0). The definition of English learners [for purposes of reporting the file specs at issue] is in the *EDFacts* Workbook.

Based on the definition of English learner as defined in ESEA section 8101(20)(C) and clarified in the data reporting guidelines (see *EDFacts* Workbook for SY2020-21, page 31, <https://www2.ed.gov/about/inits/ed/edfacts/eden/20-21-workbook-17-2.pdf>), the Department does not anticipate an EL's native language to be English. However, there may be occasional circumstances when the criteria in ESEA section 8101(20)(C) would allow for a student to be identified as an EL even though their native language is English but "whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual— (i) the ability to meet the challenging State academic standards; (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iii) the opportunity to participate fully in society." (ESEA section 8101(20)(D)).

Further, FS141 only accepts one native language for each English learner included in the data reporting counts.

For Maine's school year 2020-2021 data reporting, English was reported as one of the top 10 languages spoken in FS141/DG678 at the SEA level and also at the LEA level for 86 LEAs. During the monitoring interview, MDOE indicated that this is because its data system accepts up to five native languages per student but does not have a mechanism for identifying which language is the primary language.

**REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must submit either:

- Evidence that it has updated its data system to allow the identification of the primary language for each English learner, and has updated ED Facts data reporting processes and procedures such that this primary language is used for reporting the EL counts by native language for FS141 both at the SEA and LEA levels; or
- If such evidence is not available, a plan and a timeline for making such update to its data system.

## Title V, Part B

### SEA FINANCIAL MANAGEMENT

### REQUIREMENT SUMMARY

SEAs must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the State's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

Uniform Guidance 2 C.F.R. §§ 200.302-305

### ISSUE

As permitted under section 5221 of the ESEA, MDOE awards RLIS subgrants utilizing an alternative formula previously approved by the Secretary. Specifically, ESEA section 5221 permits an SEA to use an approved alternative formula for RLIS subgrants under which it allots funds to eligible LEAs in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the SEA used Small Area Income Poverty Estimates (SAIPE) data. As stated in 2 CFR 200.303, MDOE is responsible for establishing and maintaining effective internal controls over the Federal award, including subgrants, that provide reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

In response to monitoring questions and in submitted documentation, MDOE did not provide evidence of procedures or processes that establish effective internal controls over the RLIS subgrant process. MDOE was able to describe how RLIS subgrant amounts are generated but did not provide a written procedure outlining the timeline or process by which data is collected or procured, which data is used in the allocation process (specifically, which “alternative poverty” measure is used), how allocation amounts are adjusted based on changes to publicly-available Department data (e.g., LEA average daily attendance or award estimates included on the REAP Master Eligibility Spreadsheet), or if there are any internal processes to confirm the accuracy of the allocation amounts. MDOE described the process it uses to calculate RLIS award amounts but did not provide a standard written procedure for the process. Additionally, MDOE indicated that a single staff member calculates the allocations and then briefs a supervising staff member on the process. The supervising staff does not independently run the allocations.

The lack of written procedures governing the RLIS subgrant allocation process and lack of process to confirm the accuracy of the subgrant amounts demonstrate a lack of internal controls that provides

reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

**REQUIRED ACTION**

Within 60 business days of receiving this report, MDOE must provide the Department with evidence that it has created or updated written procedures for the RLIS subgrant allocation process. These procedures must include internal controls, such as a secondary allocation calculation by a unique staff member, and a description of how MDOE ensures data integrity when estimating RLIS allocations.

# ESSER

## SUBRECIPIENT MONITORING

## REQUIREMENT SUMMARY

A grantee shall monitor subrecipients 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

The SEA provided information regarding subrecipient monitoring that indicated that they use a different protocol, process, and grants system than other MDOE programs. For that reason, we are noting this finding specifically for the ESSER program. The Uniform Guidance section 2 C.F.R. § 200.331(d) requires that an SEA monitor LEAs 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. During the review MDOE noted that, while they have informal monitoring and review activities with LEAs, its subrecipient monitoring process had not been fully developed and implemented. MDOE indicated that financial information is monitored through ongoing processes such as single audits, grant reimbursement requests, and application reviews. MDOE further described the written programmatic reports required of all grantees. However, to ensure compliance with subrecipient monitoring requirements, Uniform Guidance section 2 C.F.R. § 200.331(d) requires that fiscal and programmatic monitoring be conducted during the post-award phase of grant making. MDOE stated during the review that their team was working on a draft subrecipient monitoring plan.

## REQUIRED ACTION

Within 30 business days of receipt of this report, MDOE must provide the Department with a plan for implementation of subrecipient fiscal and program monitoring that includes the following elements:

- A range of indicators sufficient to provide reasonable assurance that subrecipients are managing program funds in accordance with requirements; Fiscal elements should include procedures for documenting personnel expenditures (time and effort documentation), procurement procedures, equipment management and inventory procedures, and LEA procedures for determining cost allowability, in addition to any other fiscal topics or requirements MDOE determines should be covered;
- Timelines for the development of documented monitoring procedures and fiscal and programmatic monitoring protocols, including the LEA identification procedure, a description of planned monitoring activities, and any other information necessary to sufficiently describe its design and implementation;
- Identification of the staff and/or offices that will be responsible for carrying out monitoring activities;

- Descriptions of the selection process and criteria for identifying subrecipients to receive differentiated monitoring reviews based on the State's risk assessment; and
- Descriptions of the post-monitoring process, including the monitoring report process and templates, and timelines for subrecipient corrective action.

Then, within 90 days of submitting its monitoring plan to the Department, the State must provide to the Department documentation demonstrating its analysis and any findings resulting from its initial monitoring of subrecipients in the 2023-2024 school year.

## Met Requirements with Recommendation

### Financial Management and Crosscutting

#### RISK ASSESSMENT (EXTERNAL)

#### REQUIREMENT SUMMARY

In order to determine the appropriate method and level of subrecipient monitoring, an SEA shall evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward.

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

#### ISSUE

Under Uniform Guidance 2 C.F.R. § 200.332(b), an SEA must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for the purpose of determining the subrecipient monitoring to be performed by the agency. (2 C.F.R. § 200.332(b)). While MDOE was able to provide a sample of a strong risk assessment framework, including a wide range of compliance and performance indicators and clear instructions for staff to complete the scoring process, MDOE confirmed that they do not use audit findings as an indicator on their risk assessment. Although it is not explicitly required in 200.332(b)(2) to use audit findings as an indicator, this provision suggests audits are a risk factor that should be taken into consideration by the grantee. Therefore, it is highly recommended to add the results of audits as a risk factor.

Additionally, while discussing subrecipient monitoring with LEAs, at least one LEA indicated that it received a particular risk rating; low, medium, or high, but was unaware of how the rating was derived. It is highly recommended that SEAs provide LEAs with the rationale for their rating.

#### RECOMMENDATION

The Department recommends that MDOE incorporate audit findings in their risk assessment tool. Additionally, the Department recommends that MDOE implement a process to inform LEAs of the rationale of their assigned risk ratings.

## SSA Crosscutting Financial and Programmatic

### ALLOCATIONS

### REQUIREMENT SUMMARY

SEAs shall ensure that, when sub-awarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for sub-awarding 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, and 8305

EDGAR 34 C.F.R §§ 200.72-200.75, 200.100, 76.50-51, 76.300, and 76.789

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

### ISSUE

ESEA section 1003(a) and [34 C.F.R. § 200.100\(a\)\(1\)](#) require a State to reserve a certain amount of Title I-A funds for school improvement. Starting with FY 2018, ESEA section 1003(h) and [34 C.F.R. § 200.100\(a\)\(2\)](#) prohibit a State, in making this reservation, from reducing an LEA's Title I-A allocation below the amount of its prior year's allocation. Unlike the Title I-A hold-harmless provisions, neither the ESEA nor the regulations explicitly require a State to "ratably reduce" LEA allocations in reserving school improvement funds.

MDOE identifies the LEAs that are eligible to contribute to the school improvement reservation correctly, but MDOE does not ratably reduce LEAs contributing to the reservation at the same rate (ratable reduction). Instead, MDOE determines the amount that each LEA contributes by applying the proportion of the required reservation amount of the maximum that all LEAs can contribute to each LEA's maximum reservation amount. While this procedure ensures that no LEA is reduced below its prior year's amount, the reduction is not ratable because the amount an LEA contributes is based on a proportion of the difference between its current year's allocation and prior year's allocation.

### RECOMMENDATION

The Department recommends that MDOE adjust its Title I-A allocation procedures to make the school improvement reservation through ratable reductions. The document, "5 Section 1003(h) special rule model," which the Department includes in its Title I allocation notification materials, illustrates how a State can reserve funds for school improvement by ratably reducing LEAs that are eligible to contribute funds to the reservation.



## Title I, Part A

### EDUCATIONAL STABILITY FOR STUDENTS IN FOSTER CARE – LEA TRANSPORTATION PROCEDURES

### REQUIREMENT SUMMARY

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

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

### ISSUE

MDOE requires that each LEA sign an assurance that it has established written transportation plans, and MDOE's subrecipient monitoring includes examination of district-level transportation procedures. However, the Department's interviews with LEAs indicated that not all LEAs are adhering to the transportation plan requirement.

### RECOMMENDATION

The Department recommends that MDOE should emphasize in its guidance and technical assistance that LEAs must develop and maintain written transportation procedures, and MDOE should refine its monitoring procedures to strengthen the SEA's oversight of LEA compliance with the transportation plan requirements.

## Title I, Part C

### PROVISION OF SERVICES

### REQUIREMENT SUMMARY

An SEA is required to ensure that the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, are identified. The SEA's written comprehensive State plan for service delivery must be based on a current statewide needs assessment. An SEA is required to identify and address the unique educational needs of migratory children in accordance with a comprehensive State plan for service delivery.

The comprehensive State plan must be developed in collaboration with parents of migratory children and the SEA must ensure that its LOAs comply with the plan. Title I, Part C programs and projects must address the unmet education needs of preschool migratory children and migratory children who have dropped out of school. The SEA must also ensure that Title I, Part C programs and projects provide for outreach activities for migratory children and their families to inform such children and families of other education, health, nutrition, and social services to help connect them to such services. The SEA must encourage Title I, Part C programs and projects to offer family literacy services if the program or project serves a substantial number of migratory children whose parents do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

**Priority for Services:** In providing Title I, Part C-funded services, priority must be given to migratory children who have made a qualifying move within the previous 1-year period and who— (1) are failing, or most at risk of failing, to meet the challenging State academic standards; or (2) have dropped out of school.

**Continuation of Services:** A child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term; a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

ESEA §§ 1306(a), 1304(b)(1), 1304(b)(6), 1304(c)(4), 1304(c)(6), 1304(d), and 1304(e)

EDGAR 34 CFR § 200.83

**ISSUE**

MDOE last conducted a CNA in the spring of 2017. When asked about the large gap in time since conducting the last CNA, the MDOE State Director stated that the MDOE Program Manual, updated in March 2023, does contain information about performing needs assessments and goal setting. However, the document only provides a general overview of the requirement for MEP staff to conduct meetings with families and students, as well as teachers and school staff, to discuss students' educational goals and challenges to understand the needs of the students and families. There was no evidence presented that a Statewide CNA was performed after spring 2017. Further, MDOE's comprehensive State service delivery plan, last updated in December 2019, is based on the 2017 CNA. Reviewers noted outdated information in the service delivery plan, such as measurable program objectives and outcomes (MPOs) with targets ending in 2020-21.

During interviews, MDOE staff discussed changes in the needs of migratory children since the 2017 CNA, especially in light of the COVID-19 pandemic. The SEA's 2017 CNA cannot reasonably be considered current if it does not reflect the present needs of the State's migratory children. Similarly, the Statewide service delivery plan upon which the CNA is based must be reviewed and updated to ensure the State is addressing the current needs of migratory children.

**RECOMMENDATION**

We encourage MDOE to review the Department's technical assistance materials for the MEP CNA and SDP, paying particular attention to: updating the current needs of migratory children post-pandemic; updating the State approved performance targets and MPOs; aligning the service delivery strategies to the MPOs; adding missing evaluation information outlining how the SEA will evaluate the effectiveness of the MEP; adding information about the gap in proficiency between migratory students and other student groups; and adding missing information for how the SEA will meet the needs of children identified as Priority for Services. Please do not hesitate to contact your assigned program officer in OME for additional support with this process.

## Title II, Part A

### PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: LEA-LEVEL FUNDS

### REQUIREMENT SUMMARY

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

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

### ISSUE

When LEAs use local Title II, Part A funds to recruit and hire additional teachers to reduce class size in order to improve student achievement, section 2103(b)(3)(D) of the ESEA requires that the SEA ensure that such teachers are “effective.”

Beginning in school year 2022-2023, MDOE added to its application for funds a requirement that LEAs that wish to use Title II, Part A funds to pay teachers for the purpose of class-size reduction assure that such teachers are effective as determined by the LEA’s educator evaluation system. However, because this was a new application requirement for school year 2022-2023 at the time of the monitoring review, MDOE had not monitored to ensure that such assurances were being carried out.

### RECOMMENDATION

The Department recommends that MDOE update its LEA monitoring procedures so as to ensure that LEAs that use Title II, Part A funds for purposes of class-size reduction do so only to pay teachers who have been determined by the LEA to be effective.

## PREPARING, TRAINING, AND RECRUITING HIGH-QUALITY TEACHERS, PRINCIPALS, OR OTHER SCHOOL LEADERS: LEA-LEVEL FUNDS

## REQUIREMENT SUMMARY

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

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

## ISSUE

Section 2301 of the ESEA requires that Title II, Part A funds be used in a manner that supplements, and does not supplant, other State or local funds. Generally, there are two presumptions that supplanting has occurred for Title II, Part A: 1.) that funds may not be used to carry out State or local requirements, and 2.) that Federal funds not be used for purposes for which State or local funds were used in the prior year. While MDOE looks for both presumptions in reviewing applications for funds and in monitoring, its technical assistance materials (for example in the Title II, Part A “ESEA Federal Program Spending Snapshot”) address only the first presumption of supplanting.

## RECOMMENDATION

The Department recommends that MDOE revise its technical assistance materials to explicitly address both presumptions of supplanting that apply to Title II, Part A.

## Title V, Part B

### PROGRAM ADMINISTRATION

### REQUIREMENT SUMMARY

A SEA receiving a grant under RLIS may use up to five percent of its annual allocation for administrative costs, and to provide technical assistance to eligible LEAs. The RLIS appropriation that is not reserved for administrative costs and technical assistance is subgranted by the SEA to eligible LEAs for local authorized activities described in ESEA section 5222(a).

ESEA §§ 5221 and 5222(b)

Uniform Guidance 2 CFR Part 200, Subpart E

### ISSUE

In response to monitoring questions and in evidence submitted by the State, MDOE indicated that it provides “recommendations” for dual-eligible LEAs regarding which program, RLIS or SRSA, will result in higher award via email and by posting a spreadsheet with estimated allocation amounts to its website. MDOE also stated that it does not update RLIS allocation estimates each time the Department updates its data, which happens frequently over the course of the SRSA application period, or to include current information on which dual-eligible LEAs have applied for SRSA. Given that the data the Department uses to determine eligibility and estimated allocations may change over the course of the SRSA application period and a dual-eligible LEA may apply for SRSA at any time prior to the close of the application, the information MDOE provides may not be consistent with the data provided by the Department at any given time, which could cause confusion for eligible LEAs.

### RECOMMENDATION

To maintain consistency with Department data and to limit confusion for eligible LEAs, the Department recommends that MDOE refer LEAs to the REAP Master Eligibility Spreadsheet for SRSA award estimates and not publish the information on their website or provide it via email without linking to the Department’s website. Additionally, given that MDOE does not update its RLIS estimates in tandem with Department data changes and calculates RLIS estimates by excluding dual-eligible LEAs that would receive a higher award under SRSA, the Department recommends that MDOE improve and clarify in its communications with eligible LEAs (e.g., website and emails) that MDOE’s RLIS estimates are only estimates, including how those estimates are calculated.

## **RLIS SUBRECIPIENT MONITORING**

## **REQUIREMENT SUMMARY**

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 CFR § 200.332(d)

## **ISSUE**

In response to monitoring questions and in evidence submitted by the State, MDOE indicated that subrecipient monitoring for RLIS is primarily fiscal and is included under the applicable Title program (given that allowable uses of RLIS funds are activities that are allowable under other Title programs). MDOE indicated that it does not monitor for RLIS-specific programmatic topics such as supplement and not supplant requirements, per ESEA section 5232.

## **RECOMMENDATION**

To strengthen its monitoring protocol for RLIS LEAs, the Department recommends that MDOE include RLIS programmatic requirements and elements, including supplement and not supplant.