



# UTAH STATE BOARD OF EDUCATION

David L. Crandall, Chair    David L. Thomas, Vice Chair

Dixie L. Allen  
Kim R. Burningham  
Keith M. Buswell  
Leslie B. Castle  
Barbara W. Corry

Dan Griffiths  
Heather Groom  
Michael G. Jensen  
Jennifer A. Johnson

Jefferson Moss  
C. Mark Openshaw  
Debra G. Roberts  
Terry Warner

Joel Coleman, Interim Chief Executive Officer  
Lorraine Austin, Board Secretary

## MEMORANDUM

**TO:** Members, Utah State Board of Education

**FROM:** Joel Coleman  
Interim Chief Executive Officer

**DATE:** October 10, 2014

**INFORMATION:** Report on Title III Visit and Findings by the U.S. Department of Education

---

### **Background:**

A presentation was made during the September 2014 Board meeting to the Standards and Assessment Committee regarding the progress of English Learners in Utah. The U.S. Department of Education's (ED) Student Achievement and School Accountability Programs office reviewed onsite April 7-11, 2014 Utah's administration of the Title III program authorized by the Elementary and Secondary Education Act of 1965 as amended (ESEA), and through two desk reviews on April 2 and April 22, 2014.

### **Key Points:**

A timeline for corrective action has been ongoing since the visit in April. The goal of the Title III team is to see that every finding is addressed thoroughly, and systemically implemented. Responsibilities and assignments have been divided among the Title III team in order to address and respond to the findings in a timely manner.

The report included the following information:

- A brief description of the scope of the monitoring review.
- Findings.
- Required corrective actions subsequent to the report.
- Steps taken and timeline written by the Title III team to respond to findings.

### **Anticipated Action:**

The Standards and Assessment Committee will review the report resulting from the Department of Education visit. Staff will be prepared to answer questions as well as explain corrective action and next steps.

**Contact:** Jose Enriquez, 801-538-7733  
Ann White, 801-538-7827



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

The Honorable Martell Menlove  
Superintendent of Public Instruction  
Utah State Office of Education  
250 East 500 South  
PO Box 144200  
Salt Lake City, UT 84114

AUG 21 2014

Dear Superintendent Menlove:

The U. S. Department of Education's (ED) Student Achievement and School Accountability Programs office reviewed Utah's administration of the Title III program authorized by the Elementary and Secondary Education Act of 1965 as amended (ESEA), onsite April 7-11, 2014 and through two desk reviews on April 2 and April 22, 2014. Enclosed is a report based upon the review of the Title III program.

The report includes a brief description of the scope of the monitoring review, findings, and required corrective actions resulting from the review. Utah has 30 business days from receipt of this report to respond to all findings cited in the report. ED will review the State's response to determine if all findings have been addressed sufficiently and request additional information, if necessary. ED will allow 30 business days for the State to submit additional information or work with the State to identify a reasonable timeline that allows the State to address and correct all findings. A State that has significant unresolved findings or findings that are repeated from one monitoring review to the next one may have a condition placed on their grant award.

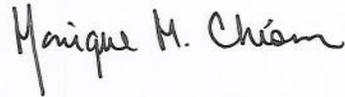
During this monitoring visit, we found as indicated in section 1.2 finding (2) of the monitoring report, that a school district was not including all English Learners (ELs) in the annual English Language Proficiency (ELP) assessment. The district explained that this was due to the parental "opt-out" provision recently enacted in State law as part of the "Parental Rights in Education" bill. I understand that the new law provides, in part: "Utah Code Annotated sec. 53A-15-1503. Parental right to academic accommodations. (9)(a) Upon the written request of a student's parent or guardian, an LEA shall excuse the student from taking a test that is administered statewide or the National Assessment of Educational Progress." Please provide a response indicating how the State will ensure consistency with the Federal requirement under Title I of the ESEA to assess all students in certain content areas (ESEA 1111(b)(3)(C)), as well as the requirement under Title III and Title I to assess all ELs annually with an ELP assessment (ESEA 1111(b)(7), 3116(b),(d)).

400 MARYLAND AVE., SW, WASHINGTON, DC 20202  
<http://www.ed.gov/>

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

The ED team would like to thank Jose Enriquez and all of the English Learner team for their hard work and assistance before and during the review. I look forward to continuing to work with you and your staff to address the needs of English language learners.

Sincerely,

A handwritten signature in black ink that reads "Monique M. Chism". The signature is written in a cursive style with a large initial 'M'.

Monique M. Chism, Ph.D.  
Director  
Student Achievement and  
School Accountability Programs

Enclosure

cc: Jose Enriquez, Educational Coordinator, Title III, Utah State Office of Education

## Utah State Office of Education

April 7-11, 2014

**Scope of Review:** The U.S. Department of Education's (ED) Office of Student Achievement and School Accountability Programs, Title III State Consolidated Grant Group monitored the Utah State Office of Education (USOE) the week of April 7-11, 2014 onsite and monitored one local education agency (LEA) through a desk review April 2, 2014. This was a comprehensive review of the USOE's administration of Title III, Part A, authorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

During the review, the ED team conducted several monitoring activities. The ED team reviewed evidence of State-level monitoring and technical assistance, implementation of the State's Title III accountability system, and fiscal and administrative oversight with the State educational agency (SEA). The ED team also interviewed staff in five local educational agencies (LEAs) – Dual Immersion Academy (DIA), Logan City School District (LCSD), Cache County School District (CCSD), Granite School District (GSD), and Salt Lake City School District (SLCSD).

**Previous Audit Findings:** None

**Previous Monitoring Findings:** ED last reviewed the Title III, Part A program in the EED during the week of April 27-May 1, 2009. ED identified compliance findings in the following areas:

Element 2.1 (1): The USOE has not met requirements for awarding immigrant subgrants. Although the USOE has developed a definition of "significant increase" for the 2009–2010 school year, it had not defined "significant increase" when it awarded immigrant subgrants for the 2008–2009 school year. Consequently, all LEAs that had immigrant children received an immigrant subgrant.

Element 2.1 (2): The USOE has not ensured that its LEAs are providing equitable services. The USOE does not provide grants to LEAs based on the total number of limited English proficient students in public and private schools, nor does it require its LEAs to calculate equitable services.

Element 2.2 (1): The USOE has not ensured that its LEAs meet requirements related to the maximum percentage allowed for administrative costs. Several LEAs had allocated more than two percent of their allocations for indirect costs and, in addition, several had funded administrative positions, which brought the total allocations for administrative costs over the two percent permitted.

Element 2.2 (2): The USOE has not ensured that its LEAs meet requirements related to allowable use of Title III funds. The ED team reviewed several invoices for materials such as physical education equipment and science kits. LEA staff could not provide any documentation demonstrating that these materials were used solely for activities for Title III students.

Element 2.4: The SLCSD used Title III funds in prior years to carry out activities specified in a Title VI (Lau) corrective action plan approved by the Office for Civil Rights (OCR). Specifically, during the 2007–2008 school year, SLCSD used Title III funds to provide

English language development (ELD) programs which were included in its corrective action plan with OCR. Limited English proficient students are assigned to ELD classes for 45 minutes daily instruction with a teacher endorsed in English as a Second Language (ESL), Bilingual Education, or a teacher who is currently in a program working toward ESL endorsement.

Element 3.2 (1): The USOE did not provide evidence that the English language proficiency of all limited English proficient (LEP) children is assessed on an annual basis. Data submitted on the Consolidated State Performance Report indicated that 12,883 LEP students were not tested.

Element 3.2 (2): The USOE did not provide sufficient evidence that its State English limited proficiency (ELP) assessment is aligned with the State ELP standards.

Element 3.4: The USOE did not hold accountable LEAs that did not meet annual measureable achievement objectives (AMAOs) for two or four consecutive years. On the list of LEAs reviewed by the ED team, 14 LEAs had not met AMAOs for two consecutive years and ten LEAs had not met AMAOs for four consecutive years.

Element 3.5: The USOE did not ensure that its procedure for collecting and calculating LEA data on the number of LEP students used to determine eligibility for Title III funds was accurate. The USOE included former LEP students in its Title III LEP calculations to determine Title III funding allocations, which resulted in some LEAs receiving Title III funds for students who exited the Title III program.

Element 4.4: The USOE did not have a process for ensuring that immigrant funds are used for their intended purpose. The LEAs visited were unable to specify how they use funds awarded under this section to enhance instructional opportunities for immigrant children and youth. Additionally, the USOE has not provided guidance to its LEAs regarding immigrant grants, or required LEAs to submit plans or budgets for these funds. LEAs have combined the immigrant funds with the regular Title III grant funds.

Element 5.3: The USOE did not ensure that LEAs complied with the requirement that teachers in Title III-funded programs be fluent in English and any other language of instruction. One LEA had a dual-language program with core content instruction provided in Spanish, but it did not provide assurance that teachers teaching content in Spanish were fluent in Spanish.

Element 7.1: The USOE has not ensured that all Title III subgrantees separately inform parents of their failure to meet AMAOs not later than 30 days after such failure occurs.

**Monitoring Indicators for Title III, Part A**

**Overarching Requirement - State Monitoring of Subgrantees**

<b>Indicator</b>	<b>Description</b>	<b>Status</b>	<b>Page</b>
Overarching Requirement	<b>State Monitoring of Subgrantees</b> sections 3113—3116, 3121-3022 and 3302 of the ESEA; EDGAR 34 CFR 80.40	Finding	3

**Finding:** The USOE did not demonstrate that it is monitoring subgrantees sufficiently to ensure that all areas of Title III noncompliance were identified during its monitoring of subgrantees. The USOE’s monitoring instrument does not include Title III use of funds and supplement, not supplant issues; in addition, the USOE’s monitoring reports from recent onsite reviews of LEAs did not identify any of the following violations detailed in this report: parental notification requirements; assessment of all LEP students and supplement, not supplant.

**Citation:** Section 80.40 of the Education Department’s General Administrative Regulations (EDGAR) requires States to monitor grant and subgrant activities to ensure compliance with applicable Federal requirements.

**Further action required:** The USOE must ensure that its Title III monitoring activities focus on compliance with Title III fiscal and programmatic requirements, particularly in the area of ensuring LEAs have proper use of funds and are not supplanting with Title III funds. The USOE must develop and submit to ED a revised monitoring plan, a revised monitoring instrument and evidence of implementation.

**Monitoring Area 1: Standards, Assessments and Accountability**

<b>Indicator Number</b>	<b>Description</b>	<b>Status</b>	<b>Page</b>
Element 1.1	<b>English Language Proficiency (ELP) Standards</b> section 3113 of the ESEA	X	
Element 1.2	<b>ELP Assessment</b> sections 3113 and 3116 of the ESEA	Findings Recommendation	4-5
Element 1.3	<b>Annual Measurable Achievement Objectives (AMAOs)</b> sections 3122(a)(1)(2)(3) and 1111(b)(2)(B) of the ESEA	Finding Recommendation	5-6
Element 1.4	<b>Data Collection and Reporting</b> sections 3121 and 3123 of the ESEA; EDGAR 34 CFR 76.731	Finding	6-7

**Element 1.2 – English Language Proficiency (ELP) Assessment**

**Finding (1):** The USOE has not ensured that Title III subgrantees comply with the parental notification requirements in section 3302(a) of the ESEA. All LEAs monitored had required information missing in the annual identification and placement parent notification. Although the SEA had just released a new guidance document called the “Master Plan” correcting its previous guidance, which had not include all the required information in the parent notification sample letter, LEAs still were not in compliance at the time of ED’s review.

**Citation:** Section 3302(a) of the ESEA requires subgrantees to provide parents of LEP children participating in or identified for participation in a Title III-funded program with notification regarding such placement each school year.

**Further action required:** The USOE must provide evidence that the SEA ensures its subgrantees meet the requirements regarding parental notification for identification and placement in Title III language instruction educational programs. The SEA must provide a plan and timeline including a description of how the SEA will annually ensure that its Title III subgrantees comply with this requirement.

**Finding (2):** The USOE has not ensured that its LEAs comply with the ESEA requirements to annually assess the English language proficiency of all LEP students. Staff in one large LEA stated that the annual ELP assessment is not administered to English language learners whose parents refuse to have their children assessed. It appears that LEAs and the SEA are allowing students to refuse the annual ELP assessment based on a new State law.

**Citation:** Section 3113(b)(3)(D) of the ESEA requires States to ensure that Title III subgrantees annually assess the English language proficiency of all LEP children in grades K-12.

**Further action required:** The USOE must provide evidence that the SEA ensures its Title III subgrantees comply with the requirement to annually assess the English language proficiency of all LEP students in grades K-12. The SEA must provide a plan and timeline including a description of how the SEA will annually ensure that its Title III subgrantees comply with this requirement. The SEA must also review subgrantees' practices and procedures regarding the annual ELP assessment of LEP students and require corrective actions to ensure compliance.

**Recommendation:** ED recommends LEAs use an initial screener that is aligned to the annual ELP assessment to ensure accurate placement of LEP students. The SEA offers, free of charge, the W-APT which is aligned to the annual WIDA ACCESS ELP assessment. Presently, LEAs are using four different screeners and some LEAs have several different screeners being used within the district. This could create placement issues if a student transfers from one district to another or in some cases from one school to another school within the same district as the various screeners may give different placements of the same student. This also creates difficulties for teachers using the data from the screener and the annual assessment to inform instruction. Should an LEA use a screener other than the W-APT, the LEA should be able to show how the screener aligned to the annual WIDA ACCESS.

### **Element 1.3 – AMAOs**

**Finding:** The USOE did not provide evidence that it has accurately applied the accountability requirements in section 3122(b) of the ESEA to Title III subgrantees that have not met the AMAOs for two or four consecutive years as evidenced by the following:

- The USOE was not requiring Title III subgrantees that failed to meet AMAOs for four consecutive years to modify their curriculum, program, and method of instruction, or make a determination whether the subgrantee shall continue to receive funds related to its failure to meet the objectives, and require the subgrantee to replace educational personnel relevant to the failure to meet the objectives. One LEA reviewed had not met their AMAOs for more than four consecutive years and the SEA had not applied any of the above sanctions.
- The USOE did not provide evidence that it is requiring subgrantees that failed to make progress toward meeting AMAOs for two consecutive years to develop an improvement plan that addresses the factors that prevented the subgrantee from achieving such objectives. While the SEA's AMAO notification letter require that districts submit improvement plans, three of the LEAs visited had not submitted plans to the SEA, and thus had not addressed the factors that prevented them from meeting their AMAOs.
- The USOE did not provide evidence that it had provided the required technical assistance to subgrantees that failed to meet their AMAOs during the development and implementation of the improvement plans in a timely manner. The SEA was providing this only as a result of a monitoring finding but not as a result of an LEA failing to meet AMAOs.

- The USOE was not requiring subgrantees that did not meet their AMAOs to implement improvement plans until the next school year, thereby, potentially failing to address the specific factors which caused the LEAs to not meet their AMAOs.

**Citation:** Section 3122(b)(2) of the ESEA requires a SEA that determines that a subgrantee has failed to meet Title III AMAOs for two consecutive years to require the LEA to develop an improvement plan that will ensure that the LEA meets such objectives. The improvement plan must specifically address the factors that prevented the LEA from achieving the objectives.

Section 3122(b)(3) of the ESEA requires a SEA to provide technical assistance to subgrantees during the development of the improvement plans and throughout the implementation. The SEA is required to provide technical assistance to the LEAs; provide technical assistance, if applicable, to schools served by the LEAs that need assistance to enable the schools to meet the AMAOs; develop, in consultation with the entity, professional development strategies and activities, based on scientifically-based research, that the agency will use to meet such objectives; require LEAs to utilize such strategies and activities; and develop, in consultation with the LEAs, a plan to incorporate strategies and methodologies, based on scientifically-based research, to improve the specific program or method of instruction provided to LEP children.

Section 3122(b)(4) of the ESEA requires a SEA that determines that a subgrantee has not met AMAOs for four consecutive years to require the subgrantee to modify its curriculum, program, and method of instruction, or make a determination whether the subgrantee shall continue to receive funds related to its failure to meet the objectives, and require the subgrantee to replace educational personnel relevant to the failure to meet the objectives.

**Further action required:** The USOE must develop and submit to ED a plan, including a timeline, which demonstrates it will accurately apply Title III accountability provisions to subgrantees that fail to meet AMAOs. The plan must demonstrate that the USOE will apply the accountability provisions in section 3122(b)(2) of the ESEA to subgrantees that fail to meet AMAOs for two consecutive years and the accountability provisions in section 3122(b)(4) of the ESEA to subgrantees that fail to meet AMAOs for four consecutive years. The plan must also include a description of how the USOE will provide the required technical assistance to subgrantees during the development of the improvement plans and throughout implementation. The USOE must provide evidence that the plan has been implemented during the 2014–2015 school year.

**Recommendation:** ED recommends that the USOE submit a Consolidated State Application amendment to update their AMAO targets and the proficiency score to reflect the use of the new ELP assessment, WIDA ACCESS, once the SEA has the data to inform these items.

### **Element 1.4 – Data Collection and Reporting**

**Finding:** The USOE has not ensured LEAs are submitting timely and accurate data for immigrant children. One LEA had not submitted immigrant numbers to the SEA for two years. Another LEA had a year of incorrect immigrant data which the SEA did not reconcile with the LEA. Each LEA visited was unclear about the definition of immigrant children and youth for Title III purposes and was unclear how to identify those students in their LEA data system. The

SEA and LEAs were using statutory provisions from an unfunded Title VII program (subpart 4 Section 3241-3248) as the immigrant children and youth program. The SEA's failure to maintain accurate data on immigrant students significantly diminishes the quality of data submitted to ED, and reduces the likelihood that the SEA immigrant allocations to LEAs are accurate.

**Citation:** Section 3114(d) of the ESEA requires States 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. The calculation is made by comparing the current increase in the number of immigrant children and youth, in public and nonpublic elementary and secondary schools in the geographic areas under the jurisdiction of, or served by, the entity, to the average of the two preceding fiscal years. Section 3301(6) defines "immigrant children and youth" as: individuals who—(A) are aged 3-21; (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 action required:** The USOE must develop and submit to ED a detailed plan that delineates the steps it will take to ensure accurate and timely collection of data on the number or percentage of immigrant children and youth from all LEAs. The USOE must provide evidence that it has a process that ensures funds awarded under section 3114(d)(1) are awarded to eligible entities based on the State's definition of "significant increase" and that the State provides training to districts on the Title III definition of immigrant children and youth in section 3301(6) and on how to report student immigrant counts.

### Monitoring Area 2: Instructional Support

Indicator Number	Description	Status	Page
Element 2.2	<b>State Oversight and Review of Local Plans</b> sections 3116(a) and 3115(c) of the ESEA; EDGAR 34 CFR 76.770	Finding Recommendations	8-9
Element 2.3	<b>Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth</b> sections 3114 and 3115 of the ESEA	Finding Recommendation	9
Element 2.4	<b>Private School Participation</b> section 9501 of the ESEA	X	

#### Element 2.2 - State Oversight and Review of Local Plans

**Finding:** The USOE has not ensured LEAs are planning and performing the two required activities for Title III – LIEPs and professional development. The local plan or Utah Consolidated Application (UCA) does not specifically describe the LEA’s planned activities. It is unclear what activities the LEA has been approved to perform. The UCA also lacks a description of the Language Instruction Educational Program (LIEP) which is one of the required activities. One LEA was not spending any Title III funds on instructional activities.

**Citation:** Section 3115(c) of the ESEA requires subgrantees to provide : 1) high-quality language instruction educational programs that are based on scientifically-based research demonstrating the effectiveness of the programs in increasing English proficiency and student academic achievement in the core academic subjects, and 2) high-quality professional development that meets the specific requirements included in section 3115(c).

**Further action required:** The USOE must provide evidence that demonstrates the SEA ensures subgrantees provide high-quality language instruction educational programs. The USOE must provide evidence to ED that it has revised its UCA to include LIEPs. Additionally, the USOE must provide evidence that its method for reviewing local plans require subgrantees to demonstrate the activities are supplemental and demonstrate the plans include how LEAs will support LIEPs.

**Recommendation:** ED recommends the USOE maintain a record of how LEAs meet the Lau requirement which makes determining whether Title III planned spending is supplemental.

**Recommendation:** ED recommends the USOE provide guidance or technical assistance to LEAs on the timelines and final approval of the local plan including the plans for immigrant subgrants. This guidance should be clearly communicated to all districts. Every district visited was unclear of the date their plan was approved, and therefore whether it was authorized to

spend funds on proposed activities. Improved communication regarding the local plan and approval timeline should result in districts spending more appropriately and in a timely manner.

### **Element 2.3 - Activities by Agencies Experiencing Substantial Increases in Immigrant Children and Youth**

**Finding:** The USOE has not issued immigrant children and youth subgrants in a timely manner. Two LEAs visited that received an immigrant children and youth award had not received notification of the award. One LEA had only received an immigrant award letter adjustment that was for \$271 but the SEA actually awarded the district \$4,567.00. This LEA was unaware of the application process for these funds. The other LEA had written a plan and budget in the UCA system for a portion of the allocation, however the fiscal department had no record of the funds and had no code for this funding stream in their budgets. The SEA has not provided sufficient guidance for the immigrant subgrant.

**Citation:** Section 3114(d) of the ESEA requires States to award subgrants to eligible entities in the State that have experienced a significant increase in immigrant children and youth. The SEA shall consider the quality of each local plan under section 3116 and ensure that each subgrant is of sufficient size and scope to meet the purposes of this part. Section 3115(e) (1) of the ESEA requires LEAs to use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth.

**Further action required:** The USOE must provide evidence that it ensures immigrant children and youth funds are distributed in a time period appropriate to carry out the activities. The USOE needs to provide evidence of training to LEAs on allowable activities for the immigrant subgrant and the application process.

**Recommendation:** ED recommends the SEA revisit the State's definition of significant increase and the percentage it sets aside for immigrant children and youth subgrant once it has accurate data from LEAs to best determine whether the subgrant is of sufficient size and scope to meet the purposes of Section 3114(d).

**Monitoring Area 3: Fiduciary**

<b>Indicator Number</b>	<b>Description</b>	<b>Status</b>	<b>Page</b>
Element 3.1	<b>State Allocations, Reallocations and Carryover</b> section 3111(b) of the ESEA; 20 USC 6821(b)(3); sections 3114(a)-(d) of the ESEA	Finding Recommendation	10- 11
Element 3.2	<b>LEA Allocations, Reallocations and Carryover</b> section 3115 of the ESEA	X	
Element 3.3	<b>Maintenance of Effort</b> sections 1120A and 9021 of the ESEA	X	
Element 3.4	<b>Supplement, Not Supplant</b> section 3115(g) of the ESEA	Finding	11

**Element 3.1 – SEA Allocations, Reallocations and Carryover**

**Finding:** The USOE has not ensured that subgrantees receive funds in a timely manner in order to fully implement the Title III program. Title III funds were awarded on March 19, 2012 for the 2011/12 school year. This is nine months into the grant period. For the 2012–13 school year, funds were awarded in January 2013, seven months into the grant period. Because the USOE awards funds in the middle of the school year, LEAs may not have had sufficient time to implement proposed activities during the school year for which the grant was made. The SEA was waiting to award Title III funds until it received all other Federal program funds, some of which are not allocated until October. The SEA’s full Title III final allocation is awarded on July 1 of each grant year and the SEA is not restricted from subgranting to LEAs immediately upon receipt of those funds.

The USOE also has not ensured that subgrantees receive immigrant funds in a timely manner in order to fully implement the immigrant program. Immigrant award letters were incorrect in one case and non-existent in another case. Subgrantees were confused about the immigrant award and were not performing immigrant activities in the two LEAs visited. Additionally, the SEA’s procedures for immigrant grant need updated as they are presently reserving three percent for the immigrant grant but their documents say 10 percent.

**Citation:** Section 3114(a) of the ESEA requires States to award subgrants to LEAs with approved plans. Section 76.700 of EDGAR requires States and subgrantees to use federal funds in accordance with the applicable statute and approved State plan. Section 76.702 of EDGAR requires a State to use fiscal control and fund accounting procedures that ensure proper disbursement and accounting for Federal funds.

**Further action required:** The USOE must develop and implement a comprehensive corrective action plan, including a timeline, implementation steps, staff, and resources, to ensure that Title III awards are made in a timely manner so that LEAs can carry out their proposed activities. The

USOE must submit this plan to ED, along with evidence of implementation. Additionally, the USOE must update its procedures for allocations, reallocations, carryover and immigrant grant allocations and provide guidance and or technical assistance to subgrantees on these procedures.

**Recommendation:** ED recommends USOE provide technical assistance to LEAs regarding requirements for recordkeeping related to personnel and include this element in regular monitoring events. Specifically, in two LEAs, a job description for Title III-funded staff either did not exist or those that were produced did not reflect a description of the specific duties.

### **Element 3.4 – Supplement, Not Supplant**

**Finding:** The USOE has not provided guidelines on supplement not supplant and has not monitored for this requirement. In one district, translations were being charged to Title III. These translations were related to activities that are provided for all students, i.e. parent teacher conferences.

**Citation:** Section 3115(g) of the ESEA requires Title III funds be used to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for LEP children and immigrant children and youth and in no case to supplant such Federal, State and local public funds.

**Further action required:** The USOE must develop and provide ED with a detailed plan, including a timeline for ensuring that its Title III subgrantees comply with Title III non-supplanting requirements. The plan must address how the State will annually ensure that its Title III subgrantees comply with Title III non-supplanting requirements.

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
<p><b>1) Overarching Requirement – State Monitoring of Sub grantees</b>                      § 3113-3116, 3121-3022 and 3302 of the ESEA; EDGAR 34 CFT 80.40</p>	<p>The USOE must ensure that its Title III monitoring activities focus on compliance with Title III fiscal and programmatic requirements, particularly in the area of ensuring LEAs have proper use of funds and are not supplanting with Title III funds. The USOE must develop and submit to ED a revised monitoring plan, a revised monitoring instrument and evidence of implementation.</p>	<ul style="list-style-type: none"> <li>• DMI UCA updates and additions</li> <li>• Screen shots of updates and a plan that shows approval.</li> <li>• Articulate Agenda and notes of UCA/DMI webinar</li> <li>• Supplement and supplant PD given to New ALS Directors at the NEW ALS meeting</li> </ul> <p>USOE Proposed schedules are used every year to monitor LEAs Our Monitoring annual process includes a combined desk top and on site monitoring. We visit schools on a four year rotation on site verification. There are some LEAs that might be monitored with more frequency due to their lack of meeting AMAOs. We visit all schools that have missed AMAOs two or more years consecutively.</p> <p>We also do an annual desk top monitor through a UCA system and added this FY 2014-15 is the Desk-top Monitoring Instrument (DMI).</p> <p>Previously the SEA would do technical visits on the off years of the monitoring visits. The way it has been done this year and most recently has been to visit as many LEAs as possible to determine a better and more effective way for the SEA to do</p>	<p>Webinar on 24 of September – Agenda, Notes, and chat history of Questions and answers.</p> <ul style="list-style-type: none"> <li>• New ALS meeting Agenda and notes</li> </ul>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
		<p>monitoring visits. These visits have also helped in accessing what LEAs stand in need of in terms of Professional Development and understanding of the law and compliance. These technical visits have also shaped what tools and instruments should be used for future monitoring visits.</p>	
<p><b>Standards, Assessments and Accountability</b>  <b>Element 1.1 – English Language Proficiency Standards</b>                      § 3113 of the ESEA</p>	<p>The USOE must provide evidence that the SEA ensures its subgrantees meeting the requirements regarding parental notification for identification and placement in Title III language instruction educational programs. The SEA must provide a plan and timeline including a description of how the SEA will annually ensure that its Title III sub grantees comply with this requirement.</p>	<p>The parental notification for identification and placement in Title III language instruction educational programs has been updated to meet federal requirements. It will be required of all LEAs to demonstrate compliance and corrective action through the UCA and DMI.</p>	<ul style="list-style-type: none"> <li>• 8 Requirements of parent notification</li> <li>• Julie will send out a memo with the requirements</li> <li>• Also show the 8 requirements in the DMI</li> <li>• LEA has to ensure that all elements are in the letters.</li> </ul>
<p><b>Standards, Assessments and Accountability</b>  <b>Element 1.2 – ELP Assessment</b>                      § 3113 and 3116 of the ESEA</p>	<p>The USOE must provide evidence that the SEA ensures its Title III sub grantees comply with the requirements to annually assess the English language proficiency of all LEP students in grades K-12. The SEA must provide a plan and timeline including a description of how the SEA will annually ensure that its Title III sub grantees comply with this requirements. The SEA must also review sub grantees’ practices and procedures regarding the annual ELP assessment of</p>	<ul style="list-style-type: none"> <li>• Scheduled meeting with Judy Park and Syd Dickson for Wednesday morning Sept/10 at 9:00 AM</li> <li>• Meeting notes with Judy Park and Syd Dickson assignment to gather information on screeners and also opt out in the field.</li> <li>• After returning and reporting on screeners and “opt out” Judy sent out the response to all</li> </ul>	<ul style="list-style-type: none"> <li>• Agendas</li> <li>• Judy Park’s memo to all Superintendents</li> <li>• Time line</li> <li>• Monitoring of all students being assessed</li> </ul>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
	<p>LEP students and require corrective actions to ensure compliance.</p>	<p>Superintendents on “opt out” Bill and how it should be interpreted and clarified.</p> <ul style="list-style-type: none"> <li>• Title III also sent it out in a Memo to all ALS directors.</li> <li>• Time line and corrective action</li> </ul>	
	<p><b>Recommendations:</b> ED recommends LEAs use an initial screener that is aligned to the annual ELP assessment. The SEA offers the W-APT which is aligned to the annual WiDA ACCESS ELP assessment. Should an LEA use a screener other than the W-APT, the LEA should be able to show how the screener aligned to the annual WiDA ACCESS.</p>	<ul style="list-style-type: none"> <li>• Presented to PAC on May 22, 2014 to make this a Board Rule. ASSESSMENT is currently working on making it a board Rule. For now it has been highly suggested that they use W-APT as the screener to align with the summative Assessment (ACCESS). An email was sent out ( ) to highly suggest change and to anticipate it.</li> </ul>	<ul style="list-style-type: none"> <li>• PAC notes and Power Point presentation to PAC</li> <li>• Meeting notes with Daron Kennett and Kurt Farnsworth on progress.</li> <li>• Timeline to present to Board with Assessment to make it a board rule.</li> <li>• Meeting Agenda; Power Point presentation;</li> <li>• Annotate Agenda and discussion and agreement of group</li> <li>• PAC meeting agenda/presentation and email send to ALS Directors regarding screener</li> </ul>
<p><b>Standards, Assessments and Accountability Element 1.3 - AMAOs</b> § 3122(a)(1)(2)(3) and 1111(b)(2)(B) of the ESEA</p>	<p>The USOE must develop and submit to ED a plan, including a timeline, which demonstrates it will accurately apply Title III accountability provisions to sub grantees that fail to meet AMAOs. The plan must demonstrate that the USOE will apply the accountability provisions in §3122(b)(2) of the ESEA to sub grantees that fail to meet AMAOs for two consecutive years and the accountability provisions in §3122(b)(4) of the ESEA to sub grantees that fail to meet AMAOs for 4 consecutive years. The plan must also include a description of how the USOE will provide the required technical assistance to sub grantees during the</p>	<p>Professional Development on “Data Drive” Two full days with LEAs that did not meet AMAOs for two or more consecutive years.</p> <p>Required a 90 Action Plan and time line for implementation. USOE will provide Technical support.</p>	<p>Notes:</p> <ul style="list-style-type: none"> <li>• Agenda for meeting with Sondra Jolovich-Motes and Danell Mieuse; Power Point presentation; attendee list; purpose of meeting; outcomes of meeting</li> <li>• Consider annotating agenda with short paragraph after each item summarizing the presentation, activity</li> <li>• Make sure outcomes of the day are noted (Action plans? – Next step?)</li> </ul>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
	<p>development of the improvement plans and throughout implementation. The USOE must provide evidence that the plan has been implemented during the 2014-2015 schools year.</p>		
	<p><b>Recommendation:</b> ED recommends that the USOE submit a Consolidated State Application amendment to update their AMAO targets and the proficiency score to reflect the use of the new ELP assessment, WiDA ACCESS, once the SEA has the data to inform these items.</p>	<ul style="list-style-type: none"> <li>• This is very important and something many states are working on already. Nevada has already proposed something.</li> <li>• It's also a joint discussion conversation and project that needs to include Assessment, Judy Park and Ann White.</li> <li>• West Ed will be bringing together five other states that are in the same scenario to discuss what they are doing and or what has been done. West ED will facilitate this meeting conference call on October 16<sup>th</sup>, 2014.</li> </ul>	
<p><b>Standards, Assessments and Accountability Element 1.4, Data Collection and Reporting</b> § 3121 and 3123 of the ESEA; EDGAR 34 CFT 76.731</p>	<p>The USOE must develop and submit to ED a detailed plan that delineates the steps it will take to ensure accurate and timely collection of data on the number or percentage of immigrant children and youth from all LEAs. The USOE must provide evidence that it is a process that it has a process that ensure funds awarded under §3114(d)(1) are awarded to eligible entities based on the State's</p>	<p>State may take out only up to a maximum of 15% of the total grant for immigrants</p> <p>This money can be a competitive grant for those LEAs that qualify for the funds</p>	<p>Cheryl Lebo will send docs from AZ that may be helpful</p> <p>Jose will put together grant – numbers not percentages – reporting of grants should be stated up front so districts know how they will report on monies spent.</p>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
	definition of “significant increase” and that the State provides training to districts on the Title III definition of immigrant children and youth in §3301(6) and on how to report student immigrant counts.	<ul style="list-style-type: none"> <li>I have had initial meeting with Lisa Wisham that is over 21<sup>st</sup> Century grant that also has competitive grants and talked about set up and process.</li> </ul>	<ul style="list-style-type: none"> <li>I have had initial meeting with Lisa Wisham that is over 21<sup>st</sup> Century grant that also has competitive grants talked about set up to end</li> </ul>
	<p align="center" style="font-size: 48px; opacity: 0.3; pointer-events: none;">DRAFT</p>	<ul style="list-style-type: none"> <li>Come up with a percentage max is 15%.</li> <li>Then make it a competitive grant for those that meet the criteria. Significant growth (USOE defines this significant growth by a percentage or number)</li> <li>It has been determined that for FY 14-15 USOE will reserve 3% of the total Title III sub-grant for the Immigrant sub-grant.</li> <li>It will be granted through a competitive grant process.</li> <li>An announcement of grant competition will be sent out to all LEAs Monday September 29<sup>th</sup>.</li> <li>Intent to submit a proposal that will be sent in by October 10<sup>th</sup>.</li> <li>A bidder’s conference will be held on October 17<sup>th</sup> at USOE.</li> <li>USOE will host a grant Reader Training with committee.</li> <li>Grant readers meeting will be held on October 28<sup>th</sup>.</li> <li>Subgrantees will be notified and awarded on October 31<sup>st</sup></li> </ul>	<ul style="list-style-type: none"> <li>Documents –Announcement of grant competition</li> <li>Bidders conference</li> <li>Intent to submit application</li> <li>Application itself</li> <li>Grant reader training announcement and Agenda for training.</li> <li>Grant reader Meeting to read the grant applications and Allocate funds (Agenda)</li> </ul>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
<b>Instructional Support</b> <b>Element 2.2, State Oversight and Review of Local Plans</b> § 3116(a) and 3115(c) of the ESEA; EDGAR 34 CFT 76.770	The USOE must provide evidence that demonstrates the SEA ensures subgrantees provide high-quality language instruction educational programs. The USOE must provide evidence that its method for reviewing local plans require subgrantees to demonstrate the activities are supplemental and demonstrate the plans include how LEAs will support LIEPs.	<ul style="list-style-type: none"> <li>• UCA</li> <li>• DMI</li> </ul>	
	<b>Recommendation:</b> ED recommends the USOE maintain a record of how LEAs meet the LAU requirement which makes determining whether Title III planned spending is supplemental.	<ul style="list-style-type: none"> <li>• UCA, DMI</li> </ul>	Notes: <ul style="list-style-type: none"> <li>• Suggestion: consider doing PD or TA event highlighting successful ways to do this – WestEd can possibly help with planning; perhaps provide expert to present</li> <li>• Documents from AZ may help USOE think about guidance they can provide; CO may have some good info as well; Cheryl will provide</li> <li>• Discussed possibility of adding “Hot Topics” page to EL site; post timelines, critical information, link to EL Master Plan</li> </ul>
	<b>Recommendation:</b> ED recommends the USOE provide guidance or technical assistance to LEAs on the timelines and final approval of the local plan including the plans for immigrant subgrants. This guidance should be clearly communicated to all districts.	<ul style="list-style-type: none"> <li>• UCA, DMI</li> </ul>	
<b>Instructional Support</b> <b>Element 2.3, Activities by Agencies</b>	The USOE must provide evidence that it ensures immigrant children and youth funds are distributed in a time period appropriate to carry out the activities. The USOE needs to provide evidence of	<ul style="list-style-type: none"> <li>• Come up with a percentage (max is 15%).</li> </ul>	

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
<p><b>Experiencing substantial Increases in Immigrant Children and Youth</b> § 3114 and 3115 of the ESEA</p>	<p>training to LEAs on allowable activities for the immigrant subgrant and the application process.</p>	<ul style="list-style-type: none"> <li>• Make it a competitive grant for those that meet the criteria. Significant growth (USOE defines this significant growth by a percentage or number)</li> <li>• It has been determined that for FY 14-15, USOE will reserve 3% of the total Title III sub-grant for the Immigrant sub-grant.</li> <li>• It will be granted through a competitive grant process.</li> <li>• An announcement of grant competition will be sent out to all LEAs Monday September 29<sup>th</sup>.</li> <li>• Intent to submit a proposal should be sent in by October 3<sup>rd</sup>.</li> <li>• A bidder's conference will be held on October 17<sup>th</sup> at USOE.</li> <li>• USOE will host a grant Reader Training with committee that was previously chosen.</li> <li>• Grant readers meeting will be held on October 28<sup>th</sup>.</li> <li>• Subgrantee will be notified and awarded on October 31<sup>st</sup></li> </ul>	
	<p><b>Recommendation:</b> The ED recommends the SEA revisit the State's definition of significant increase and the percentage it sets aside for immigrant children and youth subgrant once it has accurate data from LEAs to best determine whether the subgrant is of sufficient size and scope to meet the purposes of §3114(d)</p>	<ul style="list-style-type: none"> <li>• Will be changed. TBD</li> </ul>	<p>Notes:</p> <ul style="list-style-type: none"> <li>• Post allowable activities on website—communicate how this is done (email, EL master plan, website)</li> </ul>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
<b>Fiduciary Element 3.1, State Allocations, Reallocations and Carryover §3111(b) of the ESEA; 20 USC 6821(b)(3); §3114(a)-(d) of the ESEA</b>	The USOE must develop and implement a comprehensive corrective action plan, including a timeline, implementation steps, staff, and resources, to ensure that Title III awards are made in a timely manner so that LEAs can carry out their proposed activities. The USOE must submit this plan to ED, along with evidence of implementation. Additionally, the USOE must update its procedures for allocations, reallocations, carryover and immigrant grant allocations and provide guidance and or technical assistance to subgrantees on these procedures.	Worked out with Sam Paredes (Finance personnel for federal programs) and completed.	Notes: <ul style="list-style-type: none"> <li>• Letter or guidance document to be developed; description of process;</li> <li>• Post on website? Send out to districts first?</li> <li>• Suggestion: make sure leadership is informed and agrees to guidance</li> </ul>
	<b>Recommendation:</b> ED recommends USOE provide technical assistance to LEAs regarding requirements for record keeping related to personnel and include this element in regular monitoring events. Specifically, in two LEAS, a job description for Title III-funded staff either did not exist or those that were produced did not reflect a description of the specific duties.	<ul style="list-style-type: none"> <li>• 14 Districts will be monitored this year and more will be receiving technical support along with information through EL Master Plan and ALS Directors meetings.</li> </ul>	Provide District examples / put on DMI Notes: <ul style="list-style-type: none"> <li>• Provide District examples</li> <li>• Put on DMI (Make sure every finding is spelled out on the DMI)</li> <li>• Add to EL Master Plan – next version</li> </ul>

**SEA SYSTEMS & PROCESSES**

Element	Requirement	USOE Response	Documentation/Evidence
<b>Fiduciary Element 3.4, Supplement, Not Supplant §3115(g) of the ESEA</b>	The USOE must develop and provide ED with a detailed plan, including a timeline for ensuring that its Title III subgrantees comply with Title III non-supplanting requirements. The plan must address how the State will annually ensure that its Title III subgrantees comply with Title III non-supplanting requirements.	DMI, UCA ALS Director Meetings, EL Master Plan and PD on "Supplementing not Supplanting"	

DRAFT