

# SUBCOMMITTEE NO. 1

# Agenda

Senator Carol Liu, Chair  
Senator Ted Gaines  
Senator Roderick Wright



Thursday, May 3, 2012  
Upon adjournment of Senate Budget and Fiscal Review Committee  
Room 4203, State Capitol

## OUTCOMES

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**6110 Department of Education****ISSUE 1. Federal Workforce Investment Act (WIA) Title II Grant Funds – Adult Education and Family Literacy Act**

**BACKGROUND:** Since the early 2000s, California has annually received federal WIA Title II grant funds to provide instruction in English as a Second Language, Adult Basic Education, and Adult Secondary Education to adults in needs of these literacy services. The 2009 Budget Act stated legislative intent to further evaluate changes that may be necessary to improve the implementation of accountability-based funding under the WIA Title II. In program year 2010 (the most recent available data), these federal funds serviced 697,000 students and funded 254 agencies. Over 25,000 students obtained a high school diploma or General Education Development certificate and 47 percent of students advanced one or more federal reporting levels. In 2011-12, California received roughly \$78 million in WIA Title II grant funds.

The CDE is currently working to revise the Request for Applications (RFA) for the 2013-14 WIA Title II grant cycle. CDE indicates that the current WIA California State Plan and the CDE adult education planning document, *Linking Adults to Opportunity*, will serve as source documents in the generation of the new RFA for 2013-14. In addition, these revisions will include incorporating core federal performance metrics into the RFA and making transition to postsecondary education and training or to employment with career opportunities central goals of the program. A new RFA will also open the application process to new applicants.

**STAFF COMMENT:** CDE's work to date to revise the WIA Title II RFA for the 2013-14 grant cycle is consistent with legislative intent and overall legislative efforts to improve the state's education and training infrastructure to better address the long-term economic needs of the state. To provide further support for the Department's efforts, and ensure that this work is completed in advance of 2013-14 WIA Title II grant cycle, the Subcommittee may wish to consider the adoption of provisional budget bill language.

**STAFF RECOMMENDATIONS:** Staff recommends that the Subcommittee adopt placeholder provisional budget bill language requiring the CDE to revise the WIA Title II RFA for the 2013-14 grant cycle. These revisions shall include incorporating core federal performance metrics into the RFA and making transition to postsecondary education and training or to employment with career opportunities central goals of the program.

**OUTCOME: Approved staff recommendation. (Vote: 3-0)**

**6110 CALIFORNIA DEPARTMENT OF EDUCATION****ISSUE 2. DOF April Letter -- State Special Schools -- Capital Outlay  
(Vote Only)**

**DESCRIPTION:** The Department of Finance (DOF) April Letter requests additional lease-revenue funding in 2012-13 for two capital outlay projects at the State School for the Deaf in Riverside. More specifically, DOF requests an additional **\$6.1 million** to add construction phase lease-revenue bond appropriations -- beyond levels originally approved -- to enable the projects to be completed.

**DOF APRIL LETTER REQUEST.****Addition of Budget Bill Item 6110-301-0660, Capital Outlay, Department of Education.**

It is requested to add Item 6610-301-0660 to the budget in order to add construction phase lease-revenue bond appropriation for two projects at the State School for the Deaf in Riverside to enable the projects to be completed.

Both of these projects have had cost increases resulting from their stoppage due to the Pooled Money Investment Board's decision to suspend the AB 55 loans used to provide interim financing for these types of projects. As a result, both projects were stopped until funding was identified to complete the design. These projects are finishing design and expect to be ready to go to bid in the fall in time for the fall bond sales, which will provide funding for the construction phase.

The DOF April Letter requests additional construction funding in order to meet the specific needs of the two current capital outlay projects, as follows:

1. *California State Special Schools, Riverside School for the Deaf: Academic, Support Cores, Bus Loop and Renovation Project* will construct: six support cores for academic areas (early childhood education, elementary, and high schools); three additional classrooms; a bus loop; will renovate office space and educational areas; and install efficient boilers.

This project began in 2007 with the appropriation of approximately **\$10.4 million** in lease revenue bonds for preliminary plans, working drawings, construction, and equipment.

As a result of the temporary stoppage, **an additional \$1,510,000 is needed** in construction to address cost increases from new federal accessibility code requirements, and compliance with California Department of Education's Program

for Deaf and Hard of Hearing Students—Guidelines for Quality Standards that have since been updated.

2. ***California State Special Schools, Riverside School for the Deaf: New Gymnasium and Pool Center Project*** will demolish the existing gym and pool center to construct a new 45,000 square foot gymnasium and 23,000 square foot pool center. The project will include modifying existing utilities as necessary, complete telephone systems including teletypewriters, closed-circuit television, community access television, fire alarm systems, parking and road realignment.

This project began in 2006 with the appropriation of approximately **\$25 million** in lease revenue bonds for preliminary plans, working drawings, construction, and equipment.

As a result of the temporary stoppage, **an additional \$4,591,000 is needed** in construction to address cost increases from new federal accessibility code requirements, abatement costs to remove chlordane found during site investigation work, and compliance with California Department of Education's Program for Deaf and Hard of Hearing Students—Guidelines for Quality Standards that have been updated.

**STAFF RECOMMENDATION (VOTE ONLY).** Staff recommends approval of the DOF April Letter requests to authorize additional lease-revenue funding for two projects at the State School for the Deaf in Riverside. These two capital outlay projects were originally approved in previous state budgets with state lease-revenue bonds, but due to new construction conditions and new state and federal program requirements, the costs of completing these projects has increased. No issues have been raised for these two issues.

**OUTCOME: Approved staff recommendation. (Vote: 3-0)**

**6110 DEPARTMENT OF EDUCATION****ISSUE 3. DOF April Letter – Federal Migrant Education Program Audit**

**DESCRIPTION:** The Department of Finance (DOF) April Letter requests that funding authority for the State Board of Education be increased by **\$800,000** in the 2012-13 Budget Act to reflect the appropriation of one-time federal funds to contract for an independent audit of the federally-funded Migrant Education Program.

**BACKGROUND:** The federally-funded Migrant Education Program (MEP) provides migratory students with additional supplemental instruction, English language development, and instructional materials. The purpose of the federal Migrant Education Program is to assist states to:

1. Support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;
2. Ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;
3. Ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;
4. Ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;
5. Design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of migrant children to do well in school, and to prepare them to make a successful transition to post-secondary education or employment; and
6. Ensure migratory children benefit from State and local systemic reforms.

Additionally, state statute requires the State Superintendent of Public Instruction to identify and recruit parents of identified migratory students for local parent advisory councils to participate in local-level MEP planning, operation, and evaluation.

**Migrant Students.** California has the largest MEP enrollment in the nation with 176,001 migratory children reported for the most recent (2009-2010) category 1 child count. This is a 15 percent decrease from the 2008-2009 child count (36,713 fewer students). According to the California Department of Education (CDE), the reasons for the decrease

in MEP enrollment include the overall economic downturn with high unemployment and high cost of living in the State; reduced agricultural activity due to drought and land development; and enhanced border control. CDE stated that 56 percent of MEP students make intrastate qualifying moves; 28 percent move between California and Mexico; and 16 percent move to or from other states.

**Migrant Education Funding.** The 2010-11 budget appropriates **\$135.0 million** for the federal Migrant Education Program grant. According to CDE, the state sets aside **\$1.3 million** (one percent) of the total grant for State Administration; **\$115.1 million** (85 percent) for Local Assistance to the Migrant Education Program regions; and **\$18.6 million** (14 percent) for State-Level Activities.

The \$18.6 million for State-Level Activities includes various statewide service contracts, including \$7.1 million for Mini-Corp (services for undergraduate students); \$6.0 million for MEES (migrant education student tracking system); and \$5.5 million for other statewide programs (ranging from school readiness to out-of-school youth).

**Program and Service Delivery.** California's Migrant Education Program is organized as a regional service system comprised of 23 regions that include 14 county offices of education and 9 direct funded districts (LEAs). These 23 regions serve migratory children enrolled in approximately one-half of the state's public schools in 568 of the 1,059 LEAs in the State. CDE uses four service delivery models under this system:

1. **Centralized Region Model.** Region is responsible for all funds and provides all services to several districts;
2. **Direct Funded Districts Model.** Region is a single district (LEA);
3. **District Reimbursement Model.** Region funds districts (LEAs), which provide services through district service agreements (DSAs); district is responsible for funds and for providing services;
4. **Mixed Model.** Region provides services to some districts (as in Centralized Region Model) and reimburses other districts using DSAs. (Under this model, a region may also fund a consortium of small districts that elect one district to serve as their fiscal agent and provide services through the consortium.) The Mixed Model is the most common model for the 14 regions headed by county offices of education.

CDE subgrants MEP funds to its regions through the regional application review process. Regions distribute DSAs to districts with migrant populations and approve DSAs (using a checklist provided by CDE) in time for the region to submit its regional application and DSAs (including budgets) to CDE by May 31 each year. CDE uses this process to provide administrative oversight and monitoring, coordination, and technical assistance to its 23 regions. Regional directors coordinate and collaborate with one another (and with CDE) through the Regional Directors Council.

**Recent Federal Audits.**

In 2005 the U.S. Department of Education, Office of Migrant Education (OME) conducted a Federal Program Review (audit) of California's Migrant Education Program. This review resulted in a number of corrective actions. CDE's response to these corrective actions is still underway. Most notably, OME found that CDE had not adequately responded to three substantive concerns about its operation of the Migrant Education Program and placed special conditions on the state's 2011-12 federal grant.

In July 2011, the U.S. Department of Education conducted a Targeted Desk Review (audit), whereby OME visited CDE to conduct a focused review of "program operations" for the Migrant Education Program. The Targeted Desk Review was initiated, in part, because CDE had not completed responses to the 2005 Program Review.

CDE recently received the findings of the OME Targeted Desk Review in 2011, which also reflect corrective actions 2005 Program Review. According to CDE, the OME review identified: deficiencies in analysis, review and reporting by the State Parent Advisory Council (SPAC); identification and recruitment of migrant students and families; and fiscal oversight of the 23 regions. According to CDE, some of the federal findings "were egregious and required additional investigation."

In response to the OME findings, CDE prepared a corrective action plan, which was transmitted to the federal government in January 2012. According to CDE, the OME findings require the department to address all of the following as a part of the corrective action plan:

**1. State Parent Advisory Council:** The OME findings require the CDE to perform additional duties which are to include: developing contracts and coordinating with outside vendors, setting up and implementing webinars, live streaming of all SPAC meeting in English and Spanish, negotiate and implement interpreters and hotel contracts for parents, and provide support to take meeting minutes, monitor elections, and verify parent eligibility status for SPAC.

**2. Professional Development:** The OME findings require the CDE to provide professional development activities to enable regional staff to provide targeted instruction that helps migrant students meet state content and performance standards. The OME determined that guidance and training is needed to assist migrant education regional personnel in the use of assessment data to effectively plan programs and supplement classroom instruction.

**3. Fiscal Audit Activities:** The OME findings require more detailed fiscal oversight of all fiscal and programmatic contracted activities, including the review of itemized expenditure categories for each of the migrant regions as necessary. In some instances, the OME found regions with excessive administrative costs that not only exceeded California administrative cost standards, but reduce the funds available for direct services to migrant students.

**DOF APRIL LETTER REQUEST:**

**Items 6110-009-0001 and 6110-009-0890, State Operations (Support), State Board of Education (Board) (Issue 081).** It is requested that Item 6110-009-0890 be added in the amount of \$800,000 and that Item 6110-009-0001 be revised to provide **\$800,000** one-time federal Title I, Part C carryover funds for the Board to contract for an **independent audit or review** of the federally funded Migrant Education Program (MEP).

Given the recent federal report on the MEP, the Board and the Department of Education has expressed a desire for additional examination of the MEP to ensure program compliance and to identify areas of improvement.

It is further requested that Item 6110-009-0890 be added as follows to conform to this action:

6110-009-0890—For support of the Department of Education, for payment to Item 6110-009-0001, payable from the Federal Trust Fund.....\$800,000

Provisions:

1. The funds appropriated in this item are for the State Board of Education to contract for an independent audit or review of the federally-funded Migrant Education Program.

**Preliminary Scope of Work for Audit.** The CDE has provided a preliminary scope of work plan for independent audit proposed by the DOF April Letter. In summary, the CDE currently requests that the State Controller’s Office conduct limited scope audits in accordance with Government Auditing Standards. Of the Title I, Part C, Migrant Education programs identified by nine local education agencies (LEAs).

More specifically, the preliminary scope of the LEA audits will encompass fiscal years 2007-08 through 2010-11. The areas of review include: internal controls, allowable costs, administrative costs, allocation of funding, supplanting, and parent advisory council activities, as delineated below:

**1. Internal Controls**

- Assess the regions’ internal controls over the Migrant program (including expenditures, funding, and parent advisory council stipends) and specify recommendations for improvement.

**2. Allowable Costs**

- Verify that program funding was utilized on expenditures that are reasonable, necessary, and properly supported in accordance with applicable state and federal program requirements. Testing should include, but not be limited to the following areas:

- Travel – Determine the amount, purpose, and reasonableness of travel costs (transportation, hotel, per diem, and stipends) charged to the program, including travel by regional and parent advisory council members attending in-state and out-of-state meetings and conferences.
- Equipment – Verify that equipment is appropriately purchased and utilized solely for program purposes.
- Vehicles – Determine if vehicle costs charged to the program are used only for program purposes. Document purpose and determine reasonableness of vehicle usage.

### **3. Administrative Costs**

- Quantify the regions' administrative costs charged to the program; and identify the proportional relationship to program funding received.
- Assess the reasonableness of regional office and district staff compensation charged to the program.

### **4. Allocation of Funding**

- Assess the reasonableness of the regions' methodology for allocating program funding to the sub-recipients.

### **5. Supplanting**

- Determine if the regions utilize Migrant program funds to provide services, that the regions previously provided with non-Migrant funds.
- Determine if the regions utilized Migrant program funds to provide services that were already required to be made available under other federal, state, or local laws.

### **6. Parent Advisory Council Activities:**

- Document and assess compliance of the regions' policies and procedures for electing parent advisory council members.
- Verify that at least two-thirds of the members of the parent advisory council are parents of migrant children.
- Verify that parent advisory council stipends are paid in accordance with program requirements.

## **ADDITIONAL CDE BUDGET REQUEST:**

**Migrant Education Program - Intervention Working Group Team.** CDE has requested authority to expend an additional \$400,000 in federal Migrant Education carryover funds – beyond the \$800,000 proposed in the DOF April Letter – to contract for an Intervention Working Group Team. The DOF is currently reviewing this request for purposes of May Revise.

The proposed Intervention Working Group Team would assist CDE in addressing the findings from the U.S. Department of Education; Office of Migrant Education (OME)

Monitoring Report dated June, 2011. CDE has provided a list of the OME findings it must address and related activities for the Intervention Working Group Team, as follows:

**1. State Parent Advisory Council.** The contractor would perform the following activities:

- Research other state's State Parent Advisory Councils (SPAC) bylaws, regulations, laws, roles, and responsibilities.
- Provide recommendations to the Superintendent of Public Instruction (SPI) on possible alternatives to California's SPAC.
- Review all current contracts for SPAC activities and develop criteria for reviewing and selecting contracts to support SPAC requirements (e.g., interpreters, webinars, live streaming, etc.).
- Review and advise on subcommittee activities as needed and as determined by CDE.

**2. Professional Development.** The contractor would perform the following activities:

- Review and research alignment between California's Comprehensive Needs Assessment, State Service Delivery Plan, and the State Service Delivery Application.
- Review current technical assistance provided by CDE to assist migrant education regional personnel in the use of assessment data to effectively plan programs and supplement classroom instruction.
- Review current technical assistance provided by contractors to assist CDE and migrant regions in processes for data management as related to applications and state and federal monitoring requirements.
- Design and Implement a comprehensive professional development plan and system to meet the needs of the CDE MEP Staff along with Regions and Districts.

**3. Fiscal Audit Activities.** The contractor would perform the following activities:

- Review and evaluate current data collection requirements and quarterly reporting from subgrantees regarding itemized expenditures.
- Review and evaluate sub-grantee administrative costs and direct service costs and CDE's systems to track this data.
- Provide recommendations to the SPI on possible internal system improvements to better assist CDE in tracking this data and providing consistent and standardized technical assistance to sub-grantees regarding the definition of direct and administrative costs and supplemental instruction.

**4. Leadership Requirement.** The contractor would perform the following activities:

- Review and evaluate all current Migrant State Contracts.
- Research other state migrant program service delivery systems and provide recommendations to SSPI on a possible alternative to California's hybrid system.
- Oversee the 8-10 migrant audits being conducted and provide recommendations to the SSPI on internal and external infrastructure system improvements to the CDE migrant office, the Migrant Regions and affected LEAs (subgrantees).
- Oversee the work outlined in items 1, 2 and 3 above.

**LAO COMMENTS & RECOMMENDATIONS.**

**LAO Report on Migrant Education.** The LAO will provide the Subcommittee with a brief description of the Migrant Education program and review recommendations for a comprehensive set of reforms designed to improve the federal Migrant Education Program from a report published in 2006.

The LAO report made recommendations to address the program's: (1) funding and service model; (2) data system; and (3) carryover funding process. The 2006 LAO report identified four major concerns with the current MEP funding model, which are outlined below:

- Disconnect between funding and accountability.
- Lack of coordination between MEP services and other services.
- Funding formula does not reflect statutory program priorities.
- Funding formula does not encourage broad participation.

In response, the LAO made the following specific recommendations to the Legislature:

- Revise the MEP funding model to send the majority of funds directly to school districts rather than regional centers. Maintain some funds at county offices of education for certain regional activities and some funds at CDE for certain statewide activities.
- Direct CDE to: (1) revise the per-pupil funding formula so that it emphasizes federal and state program priorities and (2) report back on revisions once it has completed its statewide needs assessment.
- Expand the state's migrant education data system to include more data elements. Provide district and school personnel access to the enhanced system. Use \$4 million in carryover funds for the data system.
- Use the remainder of carryover funds to help transition to a district-based system. Direct CDE to develop a transition plan and associated spending plan by October 31, 2006.
- Adopt budget bill language that would allow up to 5 percent of annual migrant education funding to carryover at the local level, with any additional carryover designated for specific legislative priorities.

**STAFF COMMENTS:**

**Strength and Timing of Audit.** The federal audit has raised serious issues – at the state and local level. According to CDE, some of the federal OME findings were “egregious and required additional investigation.” The U.S. Department of Education also found that CDE had not adequately responded to three substantive concerns from the OME review about its operation of the Migrant Education Program, and as a result, placed

special conditions on the state's 2011-12 federal grant. Given the severity of these issues, would these state and local issues be better addressed by the Bureau of State Audits, rather than the independent audit and state intervention teams proposed by CDE?

**STAFF RECOMMENDATION:** Staff recommends that the Subcommittee hold this item open until May Revise.

**SUGGESTED QUESTIONS:**

1. CDE: What are the major findings and recommendations raised by the recent federal audit of the Migrant Education Program?
2. CDE: According to CDE, some of the federal findings were "egregious and required additional investigation." Can CDE summarize the most serious findings?
3. CDE: Has the Department complied with the federal audit? What is the status of any corrective actions or special conditions that resulted from the audit?
4. CDE: Are CDE's proposals for an independent state audit and state intervention team required by the federal audit findings and corrective actions?
5. CDE: Per the Department, the federal audit found some Migrant Education regional programs "with excessive administrative costs that not only exceeded California administrative cost standards but reduce the funds available for direct services to migrant students."
  - a. How are these problems being addressed by the Department?
  - b. How high were administrative rates?
  - c. What are the associated dollar amounts?
  - d. How much funding is being diverted from direct services as a result of high administrative rates?
6. CDE: Can CDE provide additional details for the proposed independent state audit included in the DOF letter?
  - a. The DOF April Letter request indicates that the State Board of Education will administer the audit? Is that still the case?
  - b. CDE: Who is likely to conduct the independent audit?
  - c. CDE: What is the timeframe for the audit?
7. CDE: Can CDE provide additional details for the proposed Intervention Working Group Team currently being reviewed by the Department of Finance?
  - a. How will contracted staff work with CDE?
  - b. How will staff work with regional staff?
  - c. What is the timeframe for the Intervention Team?
8. CDE: What is the status of the annual report for the Migrant Education program?
9. CDE: Does the Department see opportunities for addressing some of the current problems with the Migrant Education Program through program reforms, such as those recommended by the LAO's 2006 report?