

DEPARTMENT OF EDUCATION

School Districts' Inconsistent Identification and Redesignation of English Learners Cause Funding Variances and Make Comparisons of Performance Outcomes Difficult

REPORT NUMBER 2004-120, JUNE 2005

Audit Highlights . . .

Our review of the administration and monitoring of English learner programs by the Department of Education (department) and a sample of school districts found that:

- The department provides school districts leeway in setting certain criteria they use to identify students as English learners and to redesignate them as fluent.*
- Differences in school districts' identification and redesignation criteria cause funding variances and a lack of comparability in performance results.*
- Sixty-two percent of the 180 English learners we reviewed, who were candidates for redesignation but had not been redesignated, met school districts' criteria for fluent status but were still counted as English learners.*
- School district and department monitoring of schools' adherence to the redesignation process is inadequate.*
- Of 180 tested expenditures, eight were for unallowable purposes and 43 were questionable.*

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The Department of Education's response as of December 2006 and eight school districts' responses as noted in districts' action headings¹

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the administration and monitoring of state and federal English learner program (English learner) funds at the Department of Education (department) and a sample of school districts. Specifically, the audit committee asked us to examine the processes the department and a sample of school districts use to determine the eligibility of students for the English learner programs, including an evaluation of the criteria used to determine eligibility for these programs and a determination of whether school districts redesignate students once they become fluent in English. In addition, the audit committee asked us to review and evaluate the department's processes for allocating program funds, monitoring local recipients' management and expenditure of program funds, and measuring the effectiveness of the English learner programs. Lastly, the audit committee asked us to, for selected school districts, test a sample of expenditures to determine whether they were used for allowable purposes. We focused our audit on the three main English learner programs whose funds are distributed by the department—federal Title III-Limited English Proficient and Immigrant Students (Title III), state Economic Impact Aid (Impact Aid), and the state English Language Acquisition Program (ELAP). In doing so, we noted the following findings:

Finding #1: School districts are inconsistent in the criteria they use to identify and redesignate English learners.

Although the department has provided guidance to school districts for establishing criteria to identify students as English learners and to redesignate them as fluent in English, it has allowed the school

¹ The eight school districts we reviewed are: Anaheim Union High School District (Anaheim), Long Beach Unified School District (Long Beach), Los Angeles Unified School District (Los Angeles), Pajaro Valley Unified School District (Pajaro), Sacramento City Unified School District (Sacramento), San Diego City Unified School District (San Diego), San Francisco Unified School District (San Francisco), and Stockton Unified School District (Stockton).

- ☑ *The department performs limited monitoring of school districts' expenditure of English learner program funds.*
 - ☑ *The State's evaluation of the impact of particular English learner programs is weak.*
 - ☑ *The funding formula for Impact Aid is complicated and likely outdated.*
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districts some latitude in setting test score thresholds for redesignation. State law requires school districts to use California English Language Development Test (CELDT) results as the primary indicator for their initial identification of pupils as English learners, and as the first of four specific criteria for redesignating English learners as fluent. State law also requires the department, with the approval of the California State Board of Education (board), to use at least the four criteria defined in law to establish procedures for redesignating English learners to fluent status. In September 2002, the department published board-approved guidance for school districts to use in developing their initial and redesignation criteria. The department's guidance on redesignation criteria consists of student performance on the CELDT and the California Standards Test (CST) in English Language Arts (CST-ELA), as well as a teacher evaluation of academic performance, and parental opinion. However, because these are not regulations, school districts are not required to adhere to the department's guidelines. As a result, school districts' criteria for the initial identification of English learners vary and some school districts have established more stringent criteria that their English learners must meet to attain fluent status when compared to other school districts. In noting this fact, we are not concluding that a particular criterion or scoring standard is preferable to another, but rather that inter-district variation exists.

We recommended that the department, in consultation with stakeholders, establish required initial designation and redesignation criteria related to statewide tests that would provide greater consistency in the English learner population across the State. The department should pursue legislative action, as necessary, to achieve this goal. Further, school districts should ensure that their redesignation criteria include each of the four criteria required by state law for redesignating English learners to fluent status.



Department's Action: None (one-year response as of August 2006).

The department states that guidance on the redesignation of English learners is in accord with current law and that if the law changes and flexibility is impacted, it will consult with stakeholders. The department does not indicate that it has taken any action to consult with stakeholders or to seek legislation to provide greater consistency in the English learner population across the State.

Stockton's Action: Corrective action taken.

Stockton's redesignation form now covers the four criteria required by state law, including a section for teacher comments and documentation.

Finding #2: Inadequate monitoring of the redesignation process causes students who have met school district criteria for fluency to remain in the English learner population.

Although the schools we reviewed generally were consistent in adhering to their districts' initial identification processes, we noted that most of the same schools failed to fully complete, and in some cases even begin, the process of redesignating English learners to fluent status. In reviewing redesignations at eight school districts, we found that 111 (62 percent) of the 180 English learners we reviewed met the school districts' redesignation criteria but had not been redesignated as fluent in the school district records. We focused our testing on English learners who were candidates for redesignation in fiscal year 2003-04, but who had not been redesignated as fluent. There were about 42,000 such students at the eight school districts we reviewed. Further, although state regulations require school districts to maintain in students' records documentation of input from teachers, other certified staff, and parents regarding redesignation, almost none of the students we reviewed who met school district criteria for fluency had documentation in their records explaining why they were still designated as English learners. We also found that an additional 21 of the students we reviewed had been redesignated as fluent, according to documentation at their schools, but continued to be reported as English learners in the districts' student databases and reported as such to the department. When these databases overstate the number of English learners, school districts receive more funding than they are entitled to receive.

One factor contributing to these errors is the inadequate monitoring effort school districts employ to ensure that schools adhere to their redesignation processes. Another factor is the department's coordinated compliance review (compliance review), which includes testing of fluent students to ensure that they meet redesignation criteria, but did not, until May 2005, include guidance for its consultants to test current English learners' records to ensure that they are designated correctly. Without adequate monitoring, the school districts and the department lack assurance that English learners who have met the criteria for fluency are consistently redesignated.

We recommended that the department require school districts to document redesignation decisions, including decisions against redesignating students who are candidates for fluent status. Further, we recommended that school districts monitor their designation and redesignation processes more closely to ensure that schools actually complete the process and that school district databases accurately reflect all redesignations.

Department's Action: None (one-year response as of August 2006).

The department's 2005-06 English Learner Monitoring Instrument, posted on its Web site, includes a requirement to document redesignation decisions. The department says that it has distributed this instrument at various meetings and trainings throughout the State.

Anaheim's Action: Corrective action taken (one-year response as of June 2006).

Anaheim stated that in the summer of 2005 it implemented a process for obtaining the latest information on the English proficiency status of students entering its schools from elementary feeder districts and for updating its junior high student records accordingly. Further, Anaheim says that it has reviewed English learner cumulative files at most of its schools. The district also indicates that in the winter of 2006, it undertook a concerted effort to redesignate the

maximum number of eligible students. To facilitate this process it streamlined instructions and reevaluated its redesignation criteria, adding a page to its form to allow redesignation teams to clarify and memorialize their thinking process relative to final redesignation decisions.

Note: Anaheim did not need to respond to the recommendation related to school district expenditures.

Long Beach's Action: Corrective action taken (one-year response as of October 2006).

Long Beach stated that in the last 18 months it has implemented automated procedures to facilitate additional monitoring of student designations and redesignations. It said that three times a year it creates lists of students eligible for redesignation. School sites use these lists to complete the redesignation process including collecting teacher and parent input. The district's redesignation forms now include a section that clearly indicates why students who were not redesignated have been retained as English learners.

Los Angeles' Action: Corrective action taken (one-year response as of June 2006).

Los Angeles says that it modified its student information databases to automatically redesignate English learners when they meet district criteria and a parent notification letter has been printed. It also indicated that its Language Acquisition Branch is reviewing district data to monitor the redesignation process for students meeting district criteria.

Pajaro's Action: Corrective action taken (one-year response as of December 2006).

Pajaro stated that in September 2006 the district's Program Evaluation unit developed possible candidates for redesignation based on CST and CELDT scores. Bilingual Resource Teachers then collected redesignation completed forms and sent a copy to the district's director of Federal and State Programs who reviewed the documents for accuracy. An audit of the Student Information System was completed to ensure that redesignated students were coded as fluent in English. For students that qualify for redesignation based on test scores but who remain English learners, schools must explain their decision to deny redesignation and maintain supporting evidence.

Sacramento's Action: Partial corrective action taken (six-month response as of January 2006; no one-year response provided).

Sacramento says that it has modified its processes to include new monitoring standards. In addition, Multilingual Education Specialists formally monitor English learner items within the database for compliance three times a year, and documentation is sent to the associate superintendent for review.

San Diego's Action: Partial corrective action taken (one-year response as of October 2006).

San Diego indicates that it sent a memorandum to all district principals in September 2005 outlining redesignation criteria and that it offered redesignation workshops in November 2005. In addition, it sent a plan for monitoring and evaluating English learner programs to the department in October 2005 that identified staff responsible for supporting and monitoring the redesignation process, but did not establish specific processes for monitoring redesignations.

San Francisco's Action: Partial corrective action taken (one-year response as of December 2006).

San Francisco stated that in the fall of 2006, it provided training to principals and teachers on compliance requirements related to redesignations. It also indicated that it has monitored redesignations during principal evaluations. In addition, San Francisco says that consultants and the executive directors of its Multilingual Programs, and Research and Evaluation units will meet regularly to monitor the effectiveness of the data collection and reporting system in accurately reflecting all redesignations.

Stockton's Action: Partial corrective action taken (six-month response as of November 2005; no one-year response provided).

Stockton says it revised its Master Plan to include a section that addresses redesignation monitoring, specifically the timely and accurate data entry of redesignated students. The district also stated that in order to keep its database current, it has re-instituted a bi-monthly process to follow up with schools.

Finding #3: Diverse designation and redesignation criteria and inconsistent implementation of these criteria may cause funding variances and hinder comparisons of performance results.

School districts' use of more stringent designation and redesignation criteria, and a failure to implement redesignation criteria, can positively affect their funding and the outcomes for one of the three annual measurable achievement objectives (annual objectives) the department has established in accordance with Title III of the federal No Child Left Behind Act of 2001. Taking in and retaining high-scoring English learners gives some school districts a funding advantage because funding formulas are based on English learner counts. The inclusion and retention of more-advanced students also can be expected to make it easier for these districts to meet one of the annual objectives.

Title III and ELAP funding is linked directly to English learner counts. Impact Aid funding also takes into account the number of English learners. School districts that opt for more stringent designation and redesignation criteria increase their English learner counts and in turn increase their English learner funding. Furthermore, school districts that do not fully implement their established redesignation criteria and thus fail to redesignate all eligible students maintain higher English learner counts and receive higher funding than otherwise would be the case. However, we found varying designation and redesignation criteria, as well as numerous errors in the redesignation process, at all sampled school districts. Therefore, we cannot determine how much of an effect divergent criteria and a failure to implement these criteria have on English learner funding.

Further, school districts with relatively stringent initial designation and redesignation criteria may find it easier to meet the annual objective that measures students' progress in learning English because they tend to have higher percentages of students who have attained proficiency on the CELDT. According to this objective, English learners attaining proficiency on the CELDT need only maintain their proficiency to meet the annual progress target, while those who do not attain proficiency must improve their proficiency level to meet the objective. Based on statewide department data, in fiscal year 2003–04, 77 percent of English learners who previously attained proficiency on the CELDT were able to maintain their proficiency level, while only 57 percent of English learners who had not attained proficiency on the CELDT were able to improve their overall proficiency level. Consequently, performance results for this objective are probably skewed by the varying redesignation policies, and it is questionable whether these performance results are really comparable across school districts.

We recommended that the department consider changing the annual objective that measures students' annual progress in learning English to offer less incentive for school districts to maintain students as English learners.

Department's Action: Partial corrective action taken (one-year response as of August 2006).

The department states that a bookmark standard setting procedure for the CELDT was held in February 2006 and that as part of this procedure the minimum scores for the Early Advanced and Advanced levels were raised. The department does not, however, indicate that it changed the basic structure of the objective. The department expects that the change in the minimum scores will result in fewer students scoring at the English proficient level of the CELDT who do not meet the academic criteria for redesignation. The new performance levels will apply to CELDT results and Title III annual objectives for the 2006–07 school year.

Finding #4: Minimal monitoring of expenditures allows school districts to use some funds for unallowable costs.

The total funding for the three largest English learner programs was roughly \$605 million in fiscal year 2003–04, and the department distributed most of these funds to school districts. These funds must be used exclusively for supplementary services and activities geared toward the English learner population for each of the three programs. However, the department provides little guidance to school districts on how to document their use of these funds, and it does limited monitoring of the districts' expenditures, thus increasing the risk that these funds may be used for unintended purposes. In fact, we noted that some school districts have inadequate documentation practices and sometimes spend funds for unallowable or questionable purposes. Of the 180 expenditure transactions we tested, eight were for unallowable purposes and 43 were questionable. Most of the questionable expenditures related to purchases that had no contemporaneous documentation linking the expenditures to English learners or were for transactions for the purchase of goods or services that included non-English learners as well as English learners.

For example, Los Angeles used Title III funds to make two separate purchases, totaling nearly \$3.8 million, of mathematics materials for students in general instructional programs—an unallowed use of these funds. In addition, Stockton and Los Angeles spent ELAP funds at schools or on activities that are not covered by the grant award. Los Angeles spent \$11 million in ELAP funds in fiscal year 2003–04 on an extended learning program that covered a range of underachieving students in kindergarten through eighth grade, even though ELAP funds are restricted to English learners in grades four through eight.

We recommended that the department perform the steps necessary to ensure the school districts we reviewed have taken appropriate action to resolve their unallowable expenditures of supplemental English learner program funds. In addition, we recommended the department revise the documentation policy it provides to school districts to better ensure that expenditures are directed clearly at activities that serve the English learner programs' target populations. Lastly, to ensure that expenditure files clearly demonstrate that supplemental English learner program funds are directed at activities that serve the law's target populations, we recommended that school districts implement documentation policies.

Department's Action: Partial corrective action taken (one-year response as of August 2006).

The department says it has verified that the school districts either transferred or reimbursed the unallowable expenditures of supplemental English learner program funds identified in the report. The department also states it has informed school districts that expenditures charged to English learner programs must have adequate documentation to support all costs, however, it does not indicate that it has revised its documentation policy.

Long Beach's Action: Partial corrective action taken (one-year response as of October 2006).

Long Beach says that its Office of Program Assistance for Language Minority Students requires all school sites to submit strategic plans listing the activities, supplemental materials, and personnel related to allocated categorical funds. School sites are not allowed to rollover a previous year's plan. The Office of Program Assistance for Language Minority Students approves the strategic plans and all related expenditures.

Los Angeles' Action: Partial corrective action taken (one-year response as of June 2006).

Los Angeles indicates that it is conducting periodic Administrative Academy and other training using revised materials that emphasize district documentation policies and English learner program guidelines. It also says that it revisited its Coordinated Compliance Self-Review process to improve the procedures for analyzing school level English learner program expenditures and verifying supporting documentation. Los Angeles also sent a memorandum regarding ELAP, which included budget guidelines and payroll documentation procedures, to its administrators and administrative staff. The district says it reissued its Program and Budget Handbook in spring 2006 after reviewing the document to assure that documentation policies were clearly stated.

Pajaro's Action: Partial corrective action taken (one-year response as of December 2006).

Pajaro says that in September 2006 it provided follow-up training to principals on allowable expenditures of Impact Aid, Title III, and ELAP funds. In addition, the Director of Federal and State Programs now approves all ELAP expenditures.

Sacramento's Action: Partial corrective action taken (six-month response as of January 2006; no one-year response provided).

Sacramento said that it confirms the correct allocation of bilingual program funds during annual meetings with school sites. It states that it will ensure that it documents the results of these reviews, which can then be agreed to related expenditure files.

San Diego's Action: None (one-year response as of October 2006).

San Diego says that site administrators must approve all expenditures and that a budget analyst monitors expenditures from the central office. San Diego noted that the department's compliance review training guide does not require a documentation trail. San Diego did not indicate it has taken any steps itself to improve documentation.

San Francisco's Action: Partial corrective action taken (one-year response as of December 2006).

San Francisco indicated that the executive director of its Multilingual Programs unit has been meeting with account clerks and relevant administrators to ensure that proper documentation is maintained.

Stockton's Action: Partial corrective action taken (six-month response as of November 2005; no one-year response provided).



Stockton indicates that it has established a new database system to document expenditures for programs, training, and materials for English learners, but it does not say whether it has implemented policies to ensure that expenditure files clearly demonstrate that funds are directed at activities that serve the law's target populations.

Finding #5: The department measures English learner progress in language proficiency and academics, but its evaluation of the contribution of specific English learner programs is weak.

In accordance with federal law, the department has defined annual objectives to measure school districts' success in increasing the percentage of English learners who develop and attain English proficiency. However, school districts inconsistently define their English learner populations, so it is difficult to compare one district's success to another's in meeting the targets for one of the annual objectives. Moreover, state law does not require program-specific evaluations of Impact Aid, and a recent independent evaluation of school districts' implementation of ELAP has not provided conclusive evidence or reliable data on ELAP's effectiveness. Without dependable program-specific evaluations, the State cannot isolate and measure the effectiveness of particular English learner programs.

State law required the department to hire independent evaluators to conduct a five-year study on the impact of Proposition 227 and to evaluate ELAP. However, the evaluators have been unable to reach decisive conclusions on the program's value, in part because school districts combine ELAP with other funding sources to pay for a variety of English learner services and because student performance results are not comparable across school districts. Although the evaluators have not been able to provide decisive conclusions, they have provided meaningful insight and several recommendations regarding ELAP based on school districts' responses to a survey.

We recommended that the department review the evaluators' recommendations, subsequent to the submission of the final report in October 2005, and take necessary actions to implement those recommendations it identifies as having merit to ensure that the State benefits from recommendations in reports on the effects of the implementation of Proposition 227 and ELAP.

Department's Action: Partial corrective action taken (one-year response as of August 2006).

The department says that it is taking necessary actions to implement the six recommendations from the final report that it believes have merit. With regard to a recommendation to specify clear performance standards for key statewide measures for English learner progress and achievement, it indicates that the State Board of Education will review redesignation guidelines to conform with new CELDT proficiency level minimums for the separate listening and speaking scores.

Finding #6: Funding formulas are generally equitable, but a poverty statistic for impact aid needs updating.

Although the department's formulas for distributing English learner program funds are generally sound, the funding formula for Impact Aid is complicated and likely outdated. The Legislative Analyst's Office (legislative analyst) has observed that the complexity of the Impact Aid formula results in district allocations that are hard to understand based on underlying school district demographics and that the formula is weighted heavily toward poverty. Further, a key statistic used in the formula, the number of students in families receiving assistance under the California Work Opportunity and Responsibility to Kids (CalWORKs) program, has become less reflective of the population of students in poverty and is currently unavailable to the department. The governor vetoed a bill redirecting funds to study the Impact Aid formula, instead directing the Department of Finance and the Secretary of Education to work with the legislative analyst and the department to develop options for restructuring the formula. The department indicates that it will collaborate to develop a long-term solution for allocating Impact Aid funds, including determining an appropriate replacement for the CalWORKs data.

We recommended the department continue to work with the Department of Finance, the legislative analyst, and the Legislature to revise the Impact Aid funding formula to include statistics that better measure the number of students in poverty.

Department's Action: Corrective action taken (one-year response as of August 2006).

Assembly Bill 1802, approved by the governor in July 2006, repealed and replaced the existing provisions regarding the calculation and allocation of economic impact aid. Economically disadvantaged pupils, English learner counts, and 2005–06 levels of Economic Impact Aid are major factors in determining funds under the revised formula.

