CALIFORNIA STATE AUDITOR

California Department of Education

Despite Some Improvements, Oversight of the Migrant Education Program Remains Inadequate

February 2013 Report 2012-044

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February 28, 2013 2012-044

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 21, Statutes of 2012, the California State Auditor (state auditor) presents this audit report concerning the administration of the federally funded migrant education program (migrant program) by the California Department of Education (Education).

This report concludes that, despite recent efforts to improve its oversight of the migrant program, Education has not provided adequate guidance to the regional offices that administer the program's services (regions). While federal law and regulations broadly outline the allowable services migrant children can receive, they depend largely on state educational agencies to set more defined program guidelines. However, Education has not clearly defined what is necessary and reasonable for a variety of expenditure categories. This lack of formal guidance has created disagreements regarding allowable expenses as well as wide variation in how regions classify expenses. Despite the lack of robust guidance, most of the expenditures we reviewed at eight program regions appear allowable. In a review of 320 randomly selected expenditures, we questioned six expenditures, totaling roughly $14,800. The majority of this total relates to excessive food costs, when compared to federal per diem rates, incurred at a state parent conference sponsored by Education. We estimate that, for the last three annual conferences, the amount spent on food beyond what we would consider reasonable totals $200,000. Additionally, we question $144,000 in janitorial and catering costs at one region because the former director of this region approved contracts with janitorial and catering companies that she or her then-husband owned.

Education's migrant office has experienced frequent changes in leadership and high staff turnover at the same time it has been tasked with a heavy workload in response to federal reviews of the program. Moreover, the data collected on a statewide level about the migrant program are likely insufficient in detail to thoroughly evaluate whether the program is effective in addressing the academic needs of migrant children. These data limitations also prevent Education from effectively evaluating the services it provides through statewide contracts or the regional structure used to carry out the program. Finally, because of a lack of trust, Education has also had difficulty making productive use of a state parent advisory council whose purpose is to advise and assist the program.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

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Summary

Results in Brief

Despite recent efforts to improve its oversight of the federally funded migrant education program (migrant program), the California Department of Education (Education) has not provided adequate guidance to the regional offices that administer the migrant program's services. Instead, it has relied largely on the judgment of regional administrators and its individual program staff when making decisions about allowable expenses and financial codes used to categorize these expenses. This lack of formal guidance has created inconsistencies and controversy regarding allowable expenses as well as wide variation in how the migrant program regions classify expenses. As a result, Education's recent calculations of regional administrative costs were flawed and inaccurate. These calculations, as well as recent decisions related to vehicle purchases, have continued to sow discord between Education and the regions. Because of a lack of trust, Education also has had difficulty making productive use of a state parent council whose purpose is to advise and assist the migrant program. Partly because of its past inaction and lack of communication, Education now faces numerous grant conditions and reporting requirements imposed by the federal agency overseeing the migrant program.

The migrant program, which is fully funded by the federal government, provides supplemental education services to migrant children. Children can receive migrant program services if they or their parents or guardians are migrant workers in the agriculture or fishing industries and their families have moved in the last three years for the purpose of finding temporary or seasonal employment. Education receives over $130 million each year to carry out the migrant program. The purpose of the funding is to help migrant children achieve academically despite disruptions caused by repeated moves. Federal law and regulations broadly outline allowable activities and services, depending largely on state educational agencies to define more detailed program guidelines. However, Education has not clearly defined what is necessary and reasonable for a variety of expenditure categories. As a result, expenditures for items such as food, vehicles, and even instruction in music are areas of judgment that can lead to disagreements between Education and the migrant program's regions.

Despite the lack of robust guidance, most of the expenditures we reviewed at eight migrant program regions appear allowable and reasonable. In a review of 320 randomly selected expenditures totaling $12.6 million in migrant program funds, we found six instances for which we question whether the expenditures were allowable or reasonable uses of migrant funds. These

Audit Highlights . . .

Our audit of the federally funded migrant education program (migrant program) highlighted the following:

» *The California Department of Education's (Education) inadequate guidance to the regional offices that administer the migrant program's services has led to inconsistencies and controversy regarding allowable expenses and wide variation in how regions classify expenses.*

- *Education's recent calculations of regional administrative costs were flawed and inaccurate due to the inconsistencies and interpretation in classifying expenses.*
- *Most of the expenditures we reviewed appear reasonable and allowable, however, we question some expenses including expenses related to a potential conflict of interest in one region.*

» *Internal difficulties could have affected Education's oversight of the migrant program.*

- *The turnover rate in Education's migrant program office has been double the national average for turnover in state and local governments.*
- *A fractured relationship exists between Education and some of its migrant program regions due, in part, to past decisions related to allowable costs and administrative cost calculations.*

continued on next page . . .

» *Education has not completed an evaluation of the statewide effectiveness of the migrant program.*

- *The data collected about the program is likely insufficient and can only measure about half of the program's target outcomes.*
- *Data limitations do not allow Education to effectively evaluate the regional structure used to carry out the migrant program.*

six expenditures total roughly $14,800. Half of these expenditures relate to food purchased for a parent conference Education sponsored annually; these food costs totaled $100 per day for each attendee. Also, we observed food costs for a parent meeting in one region that totaled almost $33 per person for breakfast and lunch. The costs were higher than what we would consider reasonable, using the federal per diem rates as our comparison. We questioned the remaining two expenditures because they did not relate directly to migrant students or their identified needs. Further, as part of our review of internal controls and regional applications for funds, we found other questionable expenditures that were not in our sample. For example, we found that in one region a former regional director entered into contracts with janitorial and catering companies that she or her then-husband owned. The payments made to these companies totaled approximately $144,000.

Education presented flawed, unreliable calculations to the federal government regarding the amount of funding spent on administrative costs in its migrant program regions. In response to federal concerns, in January 2011 Education created *direct service* and *administrative* cost categories that had not existed before that time. Then, using data from prior fiscal years, Education sorted regional expenditures into these categories retroactively. However, Education did not explain these categories to the regions before 2011. Because Education did not direct the regions to use certain codes for administrative or direct service costs only, some regions charged administrative expenditures to codes that Education later determined were direct service codes. Similarly, some regions charged service-related costs to codes that Education later labeled administrative. Because Education retroactively used codes that did not align with the regions' underlying expenditures, its calculations were unreliable. Even so, the results fed perceptions that regional administrative costs were too high.

Additionally, Education has had internal difficulties that could affect its oversight of the migrant program. Over the past four years, Education's migrant program office has faced a turnover rate that is double the national average for turnover in state and local governments. As a result, staff who have been with the migrant program for a short time have been assigned critical tasks. Further, Education has a fractured relationship with some of its migrant program regions. Regional directors for the migrant program (regional directors) have expressed frustration that Education did not consult them before presenting administrative cost calculations to the federal government. The director for the statewide migrant program agreed that discussions between Education and some regional directors remain unproductive.

Finally, Education has not completed an evaluation of the statewide effectiveness of the migrant program and is hampered from doing so by limited data on program performance. Education has only a draft copy of an evaluation of the statewide migrant program, and the draft report indicates that Education cannot effectively measure about half of the program's target outcomes. The data collected about the migrant program are likely insufficient to thoroughly evaluate the program because only summary-level information about services is collected. Therefore, Education faces challenges in assessing the link between services provided and academic achievement. For example, Education's migrant database records a one-day reading program and a 14-week reading program identically under the same *reading services* category. Because of its data limitations, Education cannot effectively evaluate the services it provides through statewide contracts or the regional structure used to carry out the migrant program.

Recommendations

To minimize the potential for disagreement over allowable migrant program costs, Education should better define the criteria by which it will consider program costs allowable and include those criteria in the migrant program fiscal handbook it provides to the regions.

To address problems with its methodology for calculating administrative costs, Education should do the following:

- Review the regions' current use of accounting codes to identify the areas in which regions differ in accounting for similar migrant program costs.
- Provide regions with more specific direction about how to charge these expenses.
- Revise its list of accounting codes that it considers administrative in light of its review of regional coding.

To determine if the migrant program is effective, Education should finalize its current evaluation of the program and begin developing the capacity to annually produce a more robust evaluation of the program.

To address a lack of detailed migrant program service and outcome data, Education should either expand the capabilities of its existing statewide databases or implement additional systems that would allow regions to capture more detailed data about migrant students.

Agency Comments

Education generally agreed with the report recommendations but took exception to a recommendation that it essentially reverse its previous decision to disallow a vehicle purchase at the San Joaquin County Office of Education (San Joaquin). Because we did not make specific recommendations to seven regions we visited, they did not need to respond in writing to the audit report. However, we made recommendations to one of the regions—San Joaquin—resulting from a particular conflict of interest, and the region agreed that it would implement them.

Introduction

Background

The migrant education program (migrant program) is a federally funded program that has provided supplemental education services to California's migrant children since the late 1970s.[1] Children can receive migrant program services if they or their parents or guardians are migrant workers in the agriculture or fishing industries and their family has moved in the last three years for the purpose of finding temporary or seasonal employment. Federal funding is provided for migrant children ages 3 through 21. The text box outlines the purpose of the migrant program, which is generally carried out through federal grants to state educational agencies who can, in turn, provide subgrants to local educational agencies.

Purpose of the Federally Funded Migrant Education Program

To assist states in developing educational programs for migrant children that help accomplish the following:

- Reduce educational disruptions and other problems resulting from repeated moves.
- Overcome cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit their ability to do well in school.
- Ensure that migrant children receive opportunities to meet the same content and achievement standards that other children are expected to meet.
- Prepare migrant children for a successful transition to postsecondary education and employment.

Source: Summary of the Elementary and Secondary Education Act, Section 1301.

The California Department of Education and the Regional System for Delivering the Migrant Program

In California the state educational agency that administers the migrant program is the California Department of Education (Education). The federal government grants states flexibility on how they implement migrant program services. In the California Education Code, lawmakers have required Education to establish a regional system as the primary method for delivering migrant program services. State law requires that regional offices be located in areas of high concentrations of migrant workers and that the boundaries of these regions include all geographic areas with migrant workers. To supply services to migrant children residing within the regions, state law authorizes Education to contract with county offices of education, which serve as regional offices, or to contract directly with local educational agencies (school districts). As the map in Appendix A indicates, Education currently contracts with 23 regions: 14 county offices of education serving as regional offices and nine directly funded school districts. The 14 county offices can provide direct migrant program services and can also provide program funds to school districts in their respective geographical areas. The nine school districts directly funded by Education administer their own migrant programs and are not subject to regional office oversight.

[1] Migrant program funds must be used to address the needs of migrant children that other programs do not already address. Thus, the migrant program must supplement migrant children's core academic programs, not supplant them.

Education provides the regions roughly 85 percent (over $110 million) of the more than $130 million in migrant program funds spent in California. Education uses the remaining funds for its operations (roughly 1 percent) and for its contracts with entities delivering statewide programs and services (about 14 percent).

Education's implementation of the regional model outlined in state law includes its annual review and approval of regional applications for migrant program funds. Education distributes regional applications annually and requires regions seeking migrant program funds to submit the application and a proposed budget for their region. The completed applications describe the migrant student population in the region, the services the region plans to offer these students, and the target outcomes of these services. In addition, the application describes regional staffing and the method by which the region plans to involve the parents of the migrant students in the program. Once Education has reviewed a region's application, it returns comments to the region. Regional staff then adjust the application to respond to the comments. Once the process of comments and application adjustments is complete and the application is deemed satisfactory, Education approves the regional application and budget and sends an award notification letter to the region.

Education interacts with the regions through four program consultants and two fiscal analysts (program staff). Program consultants serve as the direct contact for regional offices with questions related to the implementation of the migrant program in their region. Education's fiscal analysts are responsible for communicating with the regions about the migrant program budget and budget amendments. Each migrant program staff member is assigned a set of regions that he or she is directly responsible for. In addition to interacting with the regions, migrant program staff are in charge of overseeing statewide contracts and projects and federal reporting, and at least one is assigned to the state parent advisory council (state parent council) described below.

Parent Advisory Councils

Federal law requires that each state operating a migrant program seek input from migrant parents regarding the content of the State's program. State law also requires Education to take steps to ensure effective parent involvement, including the establishment of a state parent council to participate in the planning, operation, and evaluation of the migrant program. The state parent council must comprise members who are knowledgeable of the needs of migrant children, and at least two-thirds of its members must be migrant parents. As of November 2012 the state parent council consisted of

30 members. State law requires the council to meet a minimum of six times a year. The purpose of the meetings is to provide input on issues relating to the operation of the migrant program. State law requires the state superintendent of public instruction to sponsor an annual conference for the council each spring. Finally, state law requires Education to provide the council with training, including training related to preparing a report on the status of the migrant program. After this training, the council has 120 days to submit its report including a review of needs, program evaluation, and policy recommendations.

Members of the state parent council are elected from regional parent councils. These councils provide advice to regions and can elect up to two representatives from their memberships to participate in the state parent council. Similarly, school districts funded by regional offices can have district parent councils, and these councils elect members to serve on the regional parent councils. The law assigns all parent councils the responsibility of being involved in the review of needs assessments and program goals, and of advising on the selection, development, and assignment of migrant program staff. These layers of migrant parent involvement are designed not only to provide program oversight but also to provide opportunities to teach parents how to provide for the academic needs of their children within California's educational system.

Data Systems for the Migrant Program

Education and its regions use a few databases to assist in managing the migrant program, though access to these systems varies among the different parties. Regions have access to software called COEStar through a state-administered contract. The regions use COEStar to enter information about a student's eligibility for the migrant program, school enrollment, and the services each student receives during the school year or summer term. The information that regions enter into COEStar feeds into a statewide system known as the Migrant Student Information Network (MSIN). Education uses MSIN to complete some of the required annual federal reports. Education and the regions can both review data in MSIN. Additionally, Education contracts with a consultant to use the student data in MSIN to locate migrant students in the State's student achievement database. Education's contractor provides aggregate achievement data to the regions so that they can use the information in their annual applications for funds.

Federal Reviews and Grant Conditions

The findings of recent federal reviews of California's migrant program have resulted in additional grant conditions placed on Education. The Office of Migrant Education (OME) at the U.S. Department of Education conducted a review of the migrant program in July 2011 and issued a summary of this review and other communications with Education in September 2011. OME stated in its review summary that one of the reasons for the review was Education's failure to respond to its requests for information on what Education was doing to respond to allegations regarding the state parent council. OME stated that it had notified Education of allegations of impropriety and mismanagement on the state parent council in March 2010 and was unsatisfied with Education's response and communications regarding this issue. OME's review summary contained five findings requiring corrective action, which we summarize as follows:

- State parent council: Education deferred resolution of the most serious council problems for more than three years after OME originally notified Education of its concerns. Identified problems included violations of open-meeting laws, inappropriate behavior of members, adverse relationship with Education, and unnecessary administrative expenditures.

- Administrative costs: Education was slow to respond to OME's concerns and inquiries regarding the regions' administrative costs. Education's efforts to calculate and control administrative costs were only in their infancy at the time of the review.

- Errors in eligibility determinations: OME expressed concerns with Education's plan to pay for independent reviewers of eligibility determinations using penalties paid by regions with the highest eligibility error rates.

- Failure to approve state service delivery plan: The migrant program's statewide plan remained in "draft" status at the time of OME's review, and representatives of Education could not clearly state why the State Board of Education had not been given the opportunity to approve it.

- Problems with a particular school district: Education failed to provide OME required reports on the actions it took in response to a school district whose migrant program was taken over by a regional office after significant fiscal and management problems at the district surfaced.

Most of the concerns raised by the review were the result of inaction or lack of communication by Education in response to requests from OME. While the concerns described in the last two bullet points on the previous page appear to have been resolved, the remaining concerns formed the basis for three special conditions imposed on Education's 2011 federal grant. These conditions and other corrective actions prompted by OME's review, which are summarized in Appendix B, required Education to provide numerous written responses and updates on its efforts to resolve OME's concerns. For the 2012 federal grant, OME continued the three previous grant conditions and placed an additional grant condition on Education, in response to concerns regarding the alleged conduct of migrant program staff at the regional and statewide level. Each grant condition requires Education to provide reports to OME on its efforts to address problems raised in past reviews. OME stated that failure to respond satisfactorily to the conditions could result in further administrative action. These grant conditions, including one requiring Education to conduct an audit of the fiscal operations of its regions, informed the scope of this audit, which was required by legislation enacted in June 2012.

Scope and Methodology

The Legislature directed the California State Auditor (state auditor) to conduct an independent audit of state and local implementation of the federally funded migrant program. Table 1 on the following page describes the objectives given to the state auditor and our methodology for addressing those objectives. In addition to the objectives, the Legislature required the state auditor to make recommendations for how the State may address any audit findings. We make such recommendations at the conclusion of each chapter of this audit report. Finally, the Legislature required that the sample of migrant program regions be sufficient in number to reflect the diversity of local regions and program structures. We describe the method we used to select the eight migrant program regions we audited in Appendix A of this report.

Table 1
Audit Objectives and the Methods Used to Address Them

	AUDIT OBJECTIVE	METHOD
1	Audit the expenditures, fiscal practices, and fiscal oversight at the California Department of Education (Education) and in a sample of migrant education program (migrant program) regions to determine compliance with applicable state and federal laws, regulations, and administrative policies.	• We reviewed applicable state and federal laws, regulations, and administrative policies. We reviewed Education's fiscal oversight of the migrant program regions' use of funds. We also reviewed Education's methodology for calculating administrative costs in program regions. • At a selection of eight migrant program regions, we assessed internal control practices and randomly selected 40 expenditures at each region and tested them for compliance with relevant criteria.
2	Evaluate the state parent advisory council (state parent council) makeup and activities at the state level and in a sample of local migrant program regions to determine compliance with applicable state and federal laws, regulations, and administrative policies and assess whether the State appropriately supports and engages migrant parents.	• We reviewed the applicable state and federal laws, regulations, and administrative policies. We assessed Education's oversight of the state parent council composition and verified the composition of the council's membership. • We reviewed the state parent council activity regarding its required annual report and interviewed Education and parent council members regarding this report. • We interviewed Education's staff about efforts to comply with applicable open-meeting laws at state parent council meetings and tested compliance with law related to agenda posting. • We interviewed members of the state parent council to obtain their perspective on the issues facing the council. • At a selection of eight migrant program regions, we interviewed regional staff and reviewed regional parent council agendas and minutes to determine the level of state parent representative activity at the regional level.
3	Review how effectively the State organizes and implements migrant education services at both the state and local levels, which includes alignment between program goals and program activities, outcomes from state-level contracts, effectiveness of data collection structures and internal operations, and the efficacy of the existing regional service delivery structure.	• We reviewed the alignment between the goals of the migrant program outlined in the statewide plan and the activities in the migrant program regions' application for funds. • We interviewed Education's staff and reviewed contract documents to assess Education's oversight of contractors and its efforts to ensure contract outcomes are realized. • We interviewed regional staff and Education's contractor regarding the effectiveness of data collection and internal operations of data systems. • We assessed the regional service delivery structure through interviews with regional directors, Education staff, and a comparison of the State's migrant program to programs in other states.
4	Assess the extent to which any relevant findings raised in recent federal reviews (since 2006) of the State's migrant program have been addressed. To the extent that these findings have not been adequately addressed, provide recommendations on how the State should address them to ensure the delivery of services in the migrant program are efficient and effective.	• We reviewed the federal findings from reviews and audits completed since 2006 and documented Education's most up-to-date response to the findings that were still outstanding. • We interviewed Education's staff and also spoke with representatives of the federal oversight agency. The results of our review and recommendations appear in Appendix B.

Sources: California State Auditor's analysis of Chapter 21, Statutes of 2012, and the analysis of information and documentation identified in the table column titled *Method*.

Assessment of Data Reliability

In performing this audit, we relied upon various electronic data files extracted from the information systems listed in Table 2. The U.S. Government Accountability Office, whose standards we follow, requires us to assess the sufficiency and appropriateness of computer-processed information that is used to support findings, conclusions, or recommendations. Table 2 shows the results of this analysis.

Table 2
Methods of Assessing Data Reliability

INFORMATION SYSTEM	PURPOSE	METHOD AND RESULT	CONCLUSION
San Joaquin County Office of Education (San Joaquin) California Education Computer Consortium's Financial System (Financial System) Data for fiscal years 2009–10, 2010–11, and 2011–12	• Determine the amount of expenditures paid to each vendor. • Select a sample of migrant education expenditures.	• We performed data-set verification procedures and did not identify any issues. • To test the accuracy of the San Joaquin's Financial System data, we randomly selected a sample of 29 expenditure transactions and verified that key data elements matched source documentation. This testing did not note any errors. • To test the completeness of the San Joaquin's Financial System data, we reconciled San Joaquin's total expenditures to the California Department of Education's (Education) migrant education disbursements to San Joaquin for the same grant years. The amounts materially agreed.	Sufficiently reliable for the purpose of this audit.
Monterey County Office of Education (Monterey) Financial Management System (FMS) Data for fiscal years 2009–10, 2010–11, and 2011–12	Select a sample of migrant education expenditures.	The purpose for which we used the data did not require a data reliability assessment. However, we attempted to validate the completeness of the universe from which we selected our sample. We performed data-set verification procedures and did not identify any issues. To verify the completeness of Monterey's migrant education expenditure data we attempted to reconcile Monterey's total expenditures to Education's migrant education disbursements to Monterey for the same grant years. However, we noticed that Education had disbursed payments to Monterey that were significantly higher than the amount of expenditures that Monterey had provided us. When we asked Monterey to explain the reason for the difference, an accountant from Monterey's migrant education program confirmed that the population of expenditures that we were provided from grant year 2011–12, which we used to select our sample, did not contain expenditures from January 2012 through June 2012.	Not complete for the purpose of this audit.

Sources: California State Auditor's analysis of various documents, interviews, and data obtained from the counties listed in the table.

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Chapter 1

THE CALIFORNIA DEPARTMENT OF EDUCATION HAS NOT PROVIDED SUFFICIENT FISCAL OVERSIGHT OF THE MIGRANT EDUCATION PROGRAM

Chapter Summary

The California Department of Education (Education) has not established strong oversight of the funds that it disburses for the migrant education program (migrant program). Rather, Education has provided sparse guidance about what is a necessary and reasonable expenditure in many areas of the migrant program, including food costs and classes such as music instruction. Education has combined this lack of guidance with a limited ongoing review of the regions that deliver migrant program services (regions). Though Education approves proposed migrant education expenditures annually through its application process, Education's migrant program office does not collect enough detailed information throughout the year to determine whether regions are spending funds as they proposed in their applications. Additionally, Education used a flawed approach to address federal concerns about the amount of migrant funds spent for administrative purposes. This approach fueled federal concerns and led to tension between Education and the regions it oversees.

Guidance on Which Activities Are Allowable Under the Migrant Program Is Broad and Leaves Room for Disagreement

Federal and state laws provide broad guidance on what expenditures are allowed as part of the migrant program, and Education has provided little additional guidance to narrow the definition of an allowed cost. As a result, there is room for disagreement about the allowable uses of migrant funds, which has led to tension between Education and some migrant program regions. Federal law requires states to use migrant program funding to meet the identified needs of migrant students. To meet those needs, states are required to conduct an assessment and develop a statewide service plan. Federal guidance also requires that expenditures of migrant program funds be necessary and reasonable for the proper and efficient performance and administration of the migrant program. Finally, the migrant program funds must be used to provide supplemental services to migrant students. In other words, migrant funding cannot be used to provide services to migrant students if other nonfederal funding is available for those services.

For example, migrant funds cannot be used to fund the core curriculum that all students receive, since other funds are dedicated to this purpose.

State law also remains broad in scope with regard to allowable activities and repeats the federal requirement that migrant program funds only supplement existing programs. With regard to program activities, state law establishes a regional structure for the migrant program and requires the state superintendent of public instruction, who is the head of Education, to approve the service plan for each of the regions to which it grants migrant program funding. Under federal requirements, activities are allowed if they are consistent with the statewide plan to address the needs of migrant students.[2] In September 2010 Education completed its federally required statewide plan covering the five years from 2009 to 2014. The statewide plan contains the program goals and suggested activities or strategies to meet the identified needs of the migrant students. However, none of the plan's suggested activities or strategies are strictly required of the regions, and regions can still decide to approach statewide goals using activities that are not found in the statewide plan.

Education's migrant program fiscal handbook does not address music or dance classes or what are reasonable costs for food.

In 2007 Education published a fiscal handbook to guide regions in the use of migrant program funds; this handbook largely mirrors the broad federal guidance with regard to allowable costs. In addition, the handbook specifically lists certain unallowable expenses, including items such as the salaries of employees not directly related to the migrant program, professional association fees, and excess costs from other grant agreements. The handbook provides direction that certain types of expenditures, such as conferences and travel, must be necessary and related to the identified needs of migrant students. Although the handbook provides some additional direction about allowable and unallowable expenses, it does not address certain types of expenditures, such as those for music or dance classes. It also contains no guidance on how Education will determine if certain costs for food are reasonable. We discuss these examples later in this chapter.

Under such broad criteria, the importance of judgments about the necessity and reasonableness of expenditures becomes elevated. While some expenditures may clearly violate the federal and state guidelines previously described, others can be directly tied to migrant student needs and still be questioned on the grounds of necessity or reasonableness. This gray area can and has created disagreements between Education and the regions. One area

[2] This plan is specific to the migrant program and the needs of migrant students. This statewide plan for migrant students is distinct from the statewide education plan.

of disagreement has been the question of whether regions can purchase vehicles with migrant education funds. The allowable costs section of Education's fiscal handbook does not address such expenses. However, despite approving these costs in the past, Education has recently expressed that these vehicle purchases are a cause of concern.

In one of the regions we visited—San Joaquin— we found that Education approved a vehicle purchase in 2010 and later, during a 2012 compliance review, deemed that same expenditure unallowable.

In one of the regions we visited—the San Joaquin County Office of Education (San Joaquin)—we found that Education approved a vehicle purchase in 2010 and later, during a 2012 compliance review, deemed that same expenditure unallowable. In March 2010 the migrant program administrator approved San Joaquin's use of funds to purchase a vehicle to transport parents and conduct student outreach activities. Two years later, in its formal notification of findings, Education's audits division staff initially determined that the vehicle purchase was not allowed because the region "failed to obtain approval from the awarding federal agency." After Education determined that it had approved the expenditure (federal agency approval not being necessary), Education shifted its subsequent discussions with the region to focus on whether San Joaquin could demonstrate that the vehicle was used solely to support the migrant program. Although San Joaquin provided mileage logs for the vehicle, Education's audits division asserted that the logs "did not provide enough detail to ensure that the travel was solely for the benefit of migrant children or the migrant program." Education's assistant director of the audits division stated that the logs lacked a specific destination for the vehicle, a purpose for its use, and identifying information to link the logs to the purchased vehicle. Education required San Joaquin to repay over $35,000 in funds to resolve the finding, which San Joaquin indicated it repaid from its general fund.

When we reviewed the same mileage logs, we found that they provided reasonable assurance that the vehicle in question was used solely for the benefit of the migrant program. Specifically, we did not find an instance in the logs in which someone other than migrant program staff used the vehicle. We also observed that the logs provided the city or town to which the vehicle was being driven, listed the model of the vehicle (as well as contained pictures of the vehicle), and described the purpose of each trip using a numerical code. In addition, we found no evidence that Education informed San Joaquin of the specific concerns it had about the mileage logs or gave the region a chance to demonstrate, for instance, what the numerical codes in the logs meant. In our opinion, the excessively high standard Education set for these particular mileage logs appears to have been created by the decision to disallow the vehicle, which was initially based on the incorrect understanding that the region should have obtained federal agency approval.

One other region we visited, the Bakersfield City School District (Bakersfield), proposed in early 2012 to purchase a vehicle to transport students and parents to migrant education events, and Education denied this request. Documents the region sent to Education show that the region asserted that it had no other available vehicles to transport students and parents and that it had drafted procedures for the use of the new vehicle. Education's program staff initially approved the vehicle purchase in March 2012. However, Education's deputy superintendent over the migrant program denied this purchase request in August 2012, citing an upcoming review of regional purchases as her reason for denial. We believe that this reason, like the one associated with the disallowance of San Joaquin's vehicle purchase, is insufficient, and these examples highlight one of the sources of tension between Education and some regions. Without providing more specific guidance and a rationale for what expenditures it considers necessary and reasonable, Education will likely continue to perpetuate this discord.

Without providing more specific guidance and a rationale for what expenditures it considers necessary and reasonable, Education will likely continue to perpetuate discord with some of the regions.

Education's Program Oversight Practices Hold Some Value but Are Insufficient for Monitoring the Regions' Activities

In recent years, Education's oversight of regional expenditures has not extended beyond an annual regional application process and a federal program review that occurs on a rotating basis at school sites that operate federally funded programs. Although it has made recent improvements, Education's annual review of applications for funds relied on a small number of staff working with insufficient training and guidance. This situation likely contributed to some of the deficiencies we found in approved applications. Education's application review now includes additional reviewers and improved guidance. However, the migrant program office does not directly influence how often federal program reviews will occur at migrant program regions, and a long period of time can pass between reviews. While regions are required to submit quarterly expenditure reports to Education, the main purpose of these reports is not to monitor allowable costs but to track when future installments of the grant award must be paid out to the regions. As such, the quarterly reports do not provide a detailed listing of expenditures. These monitoring efforts leave potential for a gap in Education's understanding of how funding is spent at the regional level.

Education's Regional Application Review Has Not Been Robust

Although a potentially effective component of a monitoring process, Education's application review has not always been strong and, on its own, would be insufficient to ensure that

regions actually follow through with their approved plans. As the Introduction describes, Education reviews regional applications annually to determine whether it will fund the services a region proposes. One of Education's longest tenured migrant program staff members stated that before the application review for fiscal year 2012–13, regional applications were reviewed as two separate parts by two staff members. According to this staff member, the fiscal analyst assigned to the region reviewed the proposed regional budget and the program staff member assigned to the region reviewed the text in the application related to the proposed services and regional staffing. This staff member stated that once the review of the application was complete, the program staff member for the region sent comments to the region about the revisions necessary for application approval. Once the region made those revisions, the program staff member notified Education's migrant program administrator that the application was ready for approval. Education's former director over the migrant program described the administrator's review of the application as cursory.

Because the regional application review is such a key component of Education's oversight of the regions, we expected that Education would have trained its staff in how to review the application and would have provided guidance to assist staff during the review. However, a migrant program staff member reported that Education did not provide any training to its staff on their review of the regional applications. He stated that the migrant program office expects that program staff assigned to the regions are experts who are qualified to make determinations about the applications. Although staff developed a rubric they used to check the completeness of regional applications, this rubric did not provide guidelines for evaluating the quality of the programs and services described in the regional application. Rather, the rubric included blank space for staff to record their observations or comments.

Migrant program staff reported that, in the absence of written formal guidance, they had informal discussions regarding how they planned to evaluate the regional applications and determine whether the applications satisfied the criteria. However, no process existed to ensure consistency and objectivity across the reviews. Additionally, staff commented that guidance on certain proposed expenditures did not exist. According to multiple staff members, determinations about whether some proposed expenditures were reasonable could sometimes be difficult because Education had not yet provided clear guidance regarding what is reasonable and necessary.

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Education's lack of training and guidance may have contributed to inconsistent or errant regional application reviews by its staff. We reviewed eight of the 23 regional applications for the 2011–12 grant year

and found instances in which the regional application appeared to provide inadequate information. In one case, we found that the region proposed a college awareness and outdoor program but provided little detail about what exactly the program would entail. The description of the program did not specifically describe the academic content that these camps would cover. Instead, it stated that the camps would "revolve around academic, social, and motivational skills that are taught to students." The migrant program staff member who reviewed this regional application stated to us that he did not know what outdoor program the region referred to in the application. In another case, we found that the region proposed the provision of a prekindergarten tutor service, but it left blank the area of the application that asks how the region will measure the success of the tutoring program. Finally, we found a regional application that repeated the same data analyses and state and local measurable objectives for all services listed throughout the application. Using the same measurable outcome for all services does not allow the migrant program to review the effectiveness of an individual service that it offers, including services that are less obviously linked to academic achievement, such as theater arts programs or cultural awareness classes.

Education has undertaken efforts to improve the consistency of the regional application review process.

Education made changes to its regional application review process in the summer of 2012. Multiple reviewers now read and comment on the quality of a single regional application. Education has also made efforts to improve the guidance it provides to staff on their review of the regional application. The migrant program office revised the application rubric for the 2012–13 grant year, and it now includes improved guidelines and instructions to staff in reviewing the regional applications and determining whether items satisfy the criteria. This new process, coupled with the practice of having multiple reviewers evaluate regional applications, shows that Education has undertaken efforts to improve the consistency of the regional application review process.

While the regional application is potentially an effective tool that Education could use to ensure that proposed activities align with program requirements and goals, on its own the application cannot inform Education about actual activities or expenditures. Education also requires regions to submit quarterly expenditure reports, but these do not provide a detailed breakdown of expenditures. Rather, the quarterly expenditure report is a summary of expenditures grouped by budget codes. This report allows Education to track the amount of funding spent in each budget category, but not to see the actual nature of the expenditures. In testimony before the Legislature, the deputy superintendent over the migrant program office stated that Education has not required regions to report specifically on how they spent migrant funds. Testifying about the regions, the deputy superintendent stated, "We never really broke

it down [to] exactly what are [the regions] spending and for what purposes." Without a more detailed expenditure report, Education cannot effectively determine how regions are using migrant funds, and it lacks greater assurance that the funds are being used appropriately.

Although It Participates in Ongoing Reviews of Local Educational Agencies, Education's Migrant Program Office Does Not Control the Locations or Frequency of These Reviews

Education's migrant program office participates in Education's ongoing compliance monitoring for all federal programs described in the text box; however, the migrant program office does not control which local educational agencies it will visit each year, and the potential exists for long periods to pass before migrant program regional offices receive reviews. According to Education's federal program monitoring protocols, Education's federal program monitoring office is responsible for identifying which local educational agencies will receive reviews, and it schedules the reviews with the agencies. Education's Web site indicates that the federal program monitoring office selects agencies for review after considering factors such as program size, previous compliance findings, and the academic achievement of students at the local agencies. Additionally, each year the federal program monitoring office chooses some agencies for review at random.

Federal Program Monitoring

The California Department of Education (Education) coordinates monitoring of local educational agencies for compliance with federal and state legal requirements through the federal program monitoring process.

During a monitoring review, a team of staff from Education's various branches and divisions reviews a local educational agency's compliance within multiple federal programs. Each team member reviews the agency's compliance with requirements for a particular federal program.

At the conclusion of the review, Education's monitoring team notifies the local agency about the areas of noncompliance and describes the steps the local agency must take to resolve the noncompliance.

Sources: Education's Federal Program Monitoring protocols and Web site.

When they participate in a federal program review at a local educational agency, migrant program staff follow a structured program instrument that directs which areas of the program they will review for compliance with federal and state laws and regulations. The program instrument covers various topics, some of which relate to the use of migrant funds, the involvement of parents, and the identification and recruitment of students. The program instrument details the required and suggested documentation that reviewers use to establish their findings.

However, the migrant program office does not visit a high number of program sites in a given year. Not all local educational agencies selected for federal monitoring have migrant programs. Further, for those agencies that do have migrant programs, the migrant program office determines that certain sites do not have a material number of migrant students, and therefore the office will not visit these locations. During fiscal years 2009–10 through 2011–12,

Education completed reviews at nine of the 23 migrant program regions.[3] In addition to these nine visits, Education completed visits to 45 school districts located within the jurisdictions of unvisited regional offices, meaning that Education completed a total of 54 migrant program site reviews during this three-year time period. However, these additional visits were to individual school districts, not to regional offices, and therefore would not provide a comprehensive examination of the regional program.

Education's migrant program office has a gap in its oversight of the fiscal activity of the regions it oversees.

Because of the summary-level nature of its quarterly expenditure report and the lack of control it has over how frequently regional offices receive a federal program review, Education's migrant program office has a gap in its oversight of the fiscal activity of the regions it oversees. Implementing a detailed expenditure review of regions that have not had a recent federal program monitoring visit could assist Education in closing that gap. According to migrant program staff, in the past Education performed a detailed review of regional office general ledgers, but that practice was stopped after a 2008 travel freeze. However, the current quarterly expenditure form provides Education with an opportunity to ask regions for more detailed expenditure records. This review of a region's expenditure records would allow the migrant program office to gain assurance that regions that have not recently received a federal program monitoring visit are appropriately spending funds.

Only a Few Regional Expenditures Appear Questionable

Most of the expenditures we reviewed in the eight migrant program regions we visited appeared allowable.[4] Table 3 shows the results of our review of 40 randomly selected expenditures in each of the eight selected migrant regions. Of the 320 expenditures we reviewed (valued at $12.6 million), we found only six costs—totaling approximately $14,800—that we questioned.[5]

For two of the six costs we question, the expenditures did not directly relate to migrant children or their identified needs. The other four costs we question were related to what we believe are unreasonable rates paid for food at parent conferences. Specifically, the Butte County Office of Education (Butte) approved an expenditure of almost $3,000 in migrant program funds to

[3] Education's migrant program office visited four of the 14 regional offices and five of the nine directly funded districts.

[4] In Appendix A we detail the selection of the eight program regions.

[5] In this report, *questioned costs* are expenditures that the U.S. Department of Education may identify as unallowable. If it does so, this federal agency would determine whether repayment of these costs is required.

purchase calculators and science lab coats for all students at a school, not just the migrant students. Butte's regional director stated that the region mistakenly approved the expenditure and has since strengthened its review process as a result. Delano Joint Union High School District (Delano) paid over $2,000 to transport migrant students to a recreational facility featuring rock walls, laser tag, and an arcade—activities not directly related to the needs of migrant children. The regional director stated that, although he was not regional director at the time, his understanding is that the trip provided the students an opportunity to engage in physical activity. He stated that the trip was planned only after the region realized that it had spent less on other migrant services than it had originally expected. Nevertheless, these activities are not related to the migrant program and were not included in Delano's regional application as required by the migrant program fiscal handbook.

Table 3
Results of Expenditure Reviews in Eight Migrant Education Regions

	EXPENDITURES REVIEWED		QUESTIONED COSTS	
	NUMBER	DOLLAR VALUE	NUMBER	DOLLAR VALUE*
Bakersfield City School District	40	$815,213	2	$3,786
Butte County Office of Education	40	1,101,056	1	2,859
Delano Joint Union High School District	40	1,743,593	1	2,190
Fresno County Office of Education	40	2,067,257	-	-
Los Angeles County Office of Education	40	1,719,133	-	-
Monterey County Office of Education	40	3,423,292	-	-
Pajaro Valley Unified School District	40	291,116	1	2,720
San Joaquin County Office of Education	40	1,478,285	1	3,196
Totals	**320**	**$12,638,945**	**6**	**$14,751**

Sources: California State Auditor's review of selected expenditures in eight migrant program regions.

* This table includes only the questioned costs associated with our random sample of expenditures. As noted later in this chapter, we question other expenditures that we identified during our fieldwork.

Finally, we found what we believe to be excessive food costs related to two migrant parent conferences, one in Bakersfield and the other at an annual state parent conference sponsored by Education. In September 2010 Bakersfield paid almost $33 per person to provide breakfast and lunch to 100 migrant parents. This cost appeared high; however, we did not find criteria in the State's migrant program fiscal handbook that established a reasonable rate for food at a parent meeting. In fact, when asked, Education's program staff expressed that this lack of guidance with regard to food costs is a problem. The three longest-tenured migrant program staff members with responsibility for advising the regions agreed that

they encounter the question of whether food costs are reasonable on a regular basis. These staff members stated that Education has not developed clear guidance to direct migrant program staff or the regions about this issue. They observed that food costs that could be questioned have tended to go unchallenged. In their opinion, clear guidance would assist them in helping regions to focus the spending of migrant program funds on services for migrant children.

When we asked the migrant program director about whether food is an allowed cost for the program, she stated that the appropriate direction comes from federal nonregulatory guidance that states, "Reasonable expenditures for refreshments or food, particularly when [parent meetings] extend through mealtime, are allowable." However, she acknowledged that food expenditures are an area for which Education can provide more explicit direction about what it considers reasonable and necessary. She indicated that this is an area she plans to include in an update to the migrant program fiscal handbook.

To determine whether the rates paid at the Bakersfield parent conference were reasonable, we consulted, as comparative criteria, the per diem rates for food that apply to federal employees. The current per diem rates for the combined cost of breakfast and lunch established by the federal General Services Administration total $20 per person. Using the federal rates as criteria, at $33 per person, we found over $1,500 of this expenditure by Bakersfield to be questionable.[6] Bakersfield's regional director defended this expenditure, stating that the venue, a restaurant on the upper level of the tallest building in Bakersfield, was selected because of its "cultural proficiency value," which the regional director explained allowed migrant parents to see firsthand the benefits of social mobility. The regional director added, "There is no other time that these families would be able to experience . . . this type of venue, if it weren't for this conference." Despite this perspective, we believe migrant children would be better served if the region spent its funds on educational support services, as opposed to expensive breakfasts and lunches for parent conferences.

We believe migrant children would be better served if the region spent its funds on educational support services, as opposed to expensive breakfasts and lunches for parent conferences.

Other food costs we found questionable related directly to Education's annual parent conference, where it appears that Education itself has set a tone of excessive spending. State law requires Education to sponsor an annual conference every spring for its state parent advisory council (state parent council). Education accomplishes this requirement by convening a large conference of approximately 1,000 migrant parents and program

[6] The amount we question includes a prorated portion of the 20 percent service charge that the region paid for these meals.

staff in a Los Angeles hotel. Although the conference provides some training and opportunities for program leaders to establish a rapport with migrant parents, the food costs for the conference appear to be unreasonable. According to Education's agreement with the hotel, conference participants paid the state government rate for hotel rooms ($110 plus tax), paid nothing for meeting space, but paid $100 per day for each person for meals. By comparison, the federal per diem rates provide $66 per day for meals. Food-related expenditures for this conference in three regions we reviewed—San Joaquin, Pajaro Valley Unified School District (Pajaro Valley), and Bakersfield—totaled almost $8,160 in questioned costs. The fiscal analyst for the migrant program who was assigned to the conference stated that the meal costs were not high considering that they were hotel meals and that some were even three-course meals. Nevertheless, Education's example of high costs for food, coupled with its lack of guidance on what is reasonable, sets a troubling example for regions as they make decisions about food costs. We estimate that the total amount of questioned costs related to food for this conference over the last three years is approximately $200,000.[7]

We estimate that the total amount of questioned costs related to food for the state parent council conference over the last three years is approximately $200,000.

During a review of a regional application, we found an additional expenditure in one region that was not part of our selection of 40 expenditures but was also a questionable cost according to the requirements of the migrant program. Delano provided facilities, child care, and food at a series of three personal finance classes offered to migrant parents. The migrant program fiscal handbook lists these classes as an unallowable cost. While Delano did not pay for the class instructor, it did pay $1,800 for the accompanying services, which facilitated the training. Delano's regional director stated that these were not personal finance trainings but were family literacy trainings in which parents were given information about being resourceful when buying food at the supermarket and at restaurants, establishing family goals, and using community resources such as food stamps to help with family costs. Based on his description of the included topics, as well as our own review of the curriculum and materials used, titled "*Making Every Dollar Count*," which covered topics such as how to save money on food and how to make financial decisions, we believe that these classes were personal finance trainings, and therefore we question the related costs.

We also found that some expenditures we reviewed did not clearly align with the migrant program's stated goals, although a lack of clear criteria did not allow us to question these costs. For example,

[7] This estimate is based on attendee counts provided by Education. We did not independently verify the attendance at the conference. The estimate includes the $8,160 in questioned costs identified in our selection of regional expenditures.

Bakersfield paid a music teacher approximately $250 in one month to teach after-school and weekend music classes, and a district in Fresno County Office of Education's region paid a music teacher more than $500 in one month to teach an after-school guitar class. The migrant education statewide plan does not include music education as an identified need of migrant students. However, Education's migrant program director stated that there is no policy or guideline in place that addresses music classes. The migrant program director also acknowledged that staff at Education's migrant program office, who are responsible for providing guidance to regions, have varying opinions about whether expenditures such as music classes are allowable. She stated that this situation has frustrated some regions. Education's migrant program director said that to resolve this inconsistency, Education plans to update its fiscal handbook so that it clearly articulates guidelines for music classes and for other issues, including books, materials, travel, and administrative costs, by March 2013.

Although Most Regions We Visited Have Adequate Fiscal Controls, One Former Regional Director Used Her Position to Award Contracts to Herself and Her Spouse

We examined the internal controls of the eight regions we visited and found that they were sufficient and were generally followed. At each region we visited, management has developed an adequate approval process for migrant education expenditures. This process generally involves migrant program staff who prepare purchase requests, migrant program directors who approve requests, and reviews and approvals by individuals within the regions' respective administrative service sections. We examined 320 expenditures and found only four instances in which expenditures did not have the requisite approvals. These four expenditures did not otherwise appear questionable. Overall, this structure appears adequate to ensure that migrant program funds are spent appropriately.

We examined 320 expenditures and found only four instances in which expenditures did not have the requisite approvals.

At each region we visited, we noted that the regional director was a key individual in the process of approving migrant program funds, and we included a review of this individual's activities in our assessment of the controls at the region. At San Joaquin, interviews with management revealed that the former regional director had vacated her position rather suddenly in December 2011. Given the nature of this position in the control process, we asked to review the former regional director's personnel file so that we could determine the reason for her departure.

We found that the region had entered into a separation agreement with the former regional director in December 2011 because of a conflict of interest involving the use of migrant program funds. In

particular, the former regional director appears to have directed an estimated $144,000 in catering and janitorial expenditures toward vendors she owned, or that were owned by her then-husband.[8] In the separation agreement, San Joaquin agreed to the following:

- Continued payment of the former regional director's $10,000 per month salary until the end of March 2012 and a continuation of all health plan benefits until the end of June 2012.[9]
- Two letters of recommendation—one from the director of human resources and one from a deputy superintendent.[10]
- Not to contest any unemployment claims filed by the former regional director.[11]

San Joaquin did not notify Education about this possible conflict of interest until December 2012, and did not attempt to have the former regional director prosecuted or attempt to recover funds from the former regional director or the companies involved. After it discovered the conflicts of interest in December 2011, San Joaquin cancelled the related contracts and, as required by state regulations, notified the Commission on Teacher Credentialing (commission) that the former regional director, a credentialed administrator, had voluntarily resigned her position under a separation agreement. In its letter to the commission, San Joaquin calculated that $121,000 was provided to these contractors. Even so, it continued to pay—using migrant program funds—invoices submitted by the contractors for services rendered before the contract cancellations. We calculated that the region paid roughly $139,000 for catering services and $5,000 for janitorial services. In December 2012 the commission took action against the former regional director, suspending her credential for 30 days.

The deputy superintendent overseeing San Joaquin's migrant program explained that they did not seek prosecution or repayment because they did not believe that the former regional director was trying to defraud the program; in his words, the individual "just made a series of incredibly bad judgments." Further, management and legal counsel at San Joaquin considered the probability

[8] San Joaquin indicated that one reason it did not discover this conflict earlier is that the former regional director and her then-husband did not have the same last name.

[9] Beginning in January 2012, San Joaquin used its general fund, not migrant program funds, to fulfill this agreement.

[10] The letter of recommendation from the director of human resources outlined dates and descriptions of positions held by the former regional director. The deputy superintendent stated that he ultimately did not provide a letter of recommendation for this individual because the director withdrew her request.

[11] We did not attempt to determine whether the former regional director filed any unemployment claims.

of actually recovering funds to be low and not worth the cost of pursuing further action. Instead, they believed the correct approach was to speedily end the former regional director's tenure at San Joaquin under a separation agreement that she would actually sign. The deputy superintendent also indicated that in June 2012 San Joaquin paid a final invoice for $1,350 in catering services that occurred in December 2011, because the migrant program had received the food and the price was fair.

We examined the costs of the janitorial and catering services and agree that the per-meal food costs associated with the catering services were reasonable, although we still question paying the catering invoice after the discovery of the conflict of interest. Although this is not information San Joaquin would have had at the time it made its decisions regarding this employee, we found that the cost of the janitorial services was much higher than what San Joaquin is currently paying since it replaced the previous contractor. Under the previous janitorial services contracts—the ones that the former regional director approved for her then-husband's company—San Joaquin paid roughly $4,600 for two-days-a-week cleaning during peak months and approximately $2,600 for one-day-a-week cleaning during off-peak months. Peak months are months in which certain sites are used frequently for migrant student instruction. Between nine and 10 months of the year are considered peak, depending on the location. Under the new janitorial services contract, which began in January 2012 and provides for essentially the same service for the same locations, the migrant program pays approximately $1,000 during peak months and $600 in off-peak months. Even without a conflict of interest, these results cast doubt on whether the costs associated with the previous janitorial services contract were reasonable.

The evidence we found led us to believe that the former regional director may have violated two of California's key conflict-of-interest laws.

Finally, we found evidence that the former regional director regularly approved rate increases for this janitorial services vendor, analyzed and rejected at least one other vendor's proposal, and replaced at least one former janitorial contract with a more expensive contract from her then-husband's company.[12] The evidence we found led us to believe that the former regional director may have violated California Government Code, Section 1090, and the Political Reform Act of 1974—two of California's key conflict-of-interest laws. Consequently, we forwarded our concerns to the district attorney in San Joaquin County and the Fair Political Practices Commission and made copies available of the evidence we had collected. Because federal regulations require agencies that spend federal funds to comply

[12] The janitorial contracts do not appear to have been awarded using a competitive bidding process. Rather, due to the low dollar value of each individual contract, an informal analysis—essentially done by the former regional director—was the basis for the awards.

with their own state contracting laws (including California Government Code, Section 1090), we question the $144,000 spent on these janitorial and catering services described earlier. San Joaquin agreed to take the following needed actions:

- Evaluate its procurement policies and procedures.
- Revise its conflict-of-interest code, which had not been formally updated and approved by its board of supervisors since 1976.
- Provide conflict-of-interest training for all its managers.[13]

Education's Rush to Measure and Control Migrant Program Administrative Costs Caused Significant Implementation Errors

When Education calculated regional administrative costs to present to the federal government in August 2011, it did so in a flawed manner, and therefore reported unreliable data on administrative costs to the federal Office of Migrant Education (OME). In response to a 2010 federal request, Education calculated estimates of the percentage of the funding in each migrant program region that was spent on administrative costs rather than costs for direct services. These calculations indicated that some regions used a large percentage of funding for administrative purposes. As depicted in Table A in Appendix A, Education's calculations show that over a two-year period, some regions spent an average of almost 40 percent of their annual migrant funds on administrative expenses. Education's calculations fueled federal concerns, and OME tasked Education with developing a plan to address the high rates of administrative costs that the calculations showed.

To calculate the regional administrative costs it reported to OME in August 2011, Education requested that the regions provide historical expenditure information. Specifically, in January 2011, Education asked the regions to provide expenditure data related to fiscal years 2008–09 and 2009–10. Education then sorted these expenditures into two major categories: *direct services costs* and *administrative costs*. These categories were created in 2011 by the former migrant program administrator and Education staff, who determined that certain accounting codes would signify expenditures related to administration and other accounting codes would signify expenditures related to direct services.

[13] The former regional director did not receive any formal conflict-of-interest training, nor did she submit any conflict-of-interest statements. The region's procurement policies do not specify types and dollar amounts of contracts requiring vendor competition or other forms of price comparisons.

However, when the regions originally assigned accounting codes to migrant program expenditures in fiscal years 2008–09 and 2009–10, they did not know that these codes would later be used to determine whether the expenses were administrative or direct services. State law requires the regions to comply with the *California School Accounting Manual* (accounting manual) when recording their financial information; however, the accounting manual is not specific to migrant education and does not contain guidance on how to charge expenditures in the event that an administrative cost calculation is needed. Further, the particular codes that Education used to separate administrative and direct service costs are not discussed in detail in the migrant program fiscal handbook.

Unless regions receive specific instructions in advance of administrative cost calculations, it is inadvisable to consider all costs charged statewide to a particular code to be only administrative or only service related.

In the absence of clear direction, the regions charged similar expenditures to different codes. For example, we observed differences between regions in the accounting codes used for expenditures related to secretarial staff and reimbursements to local school districts. In two regions, we found that the salaries of secretaries and clerks working in the county office building were charged to a code titled "Other Pupil Services," which Education considers a direct service expense, while other regions charged similar positions to codes for support services, which Education considers an administrative expense. Given the variety in accounting code choices at the regional level, it is inadvisable to consider all costs charged statewide to a particular code to be only administrative or only service related unless the regions had received detailed instructions, in advance of the calculations, regarding what codes to charge.

In our review of 320 expenditures, which included 40 expenditures from each of the eight regions we visited, we found that 47 expenditures were incorrectly coded according to the guidance in the accounting manual. However, only 28 of these errors would ultimately have any effect on Education's calculation of administrative costs for the migrant program. Butte accounted for 10 of these errors, most resulting from the region's use of the accounting code for "Other Pupil Services." Education's accounting manual and expenditure classifications indicate that this code should be used for direct services, but Butte used this code to charge salaries for positions that require little to no direct interaction with migrant students. According to Butte's regional director, Butte is correcting its coding errors for most of its positions; however, because its program coordinators are based in school districts and work with district and migrant staff, she believes that their salaries are coded correctly. Nevertheless, because the job description of Butte's program coordinators does not indicate that they work directly with migrant students, we conclude that Butte should classify their salaries with an administrative code. Figure 1 on page 30 illustrates the effect

that Butte's incorrect coding of these salaries would have on Education's administrative cost calculation. Specifically, some portion of the salaries appearing in Butte's direct service percentage should actually have been included in Butte's administrative cost percentage.

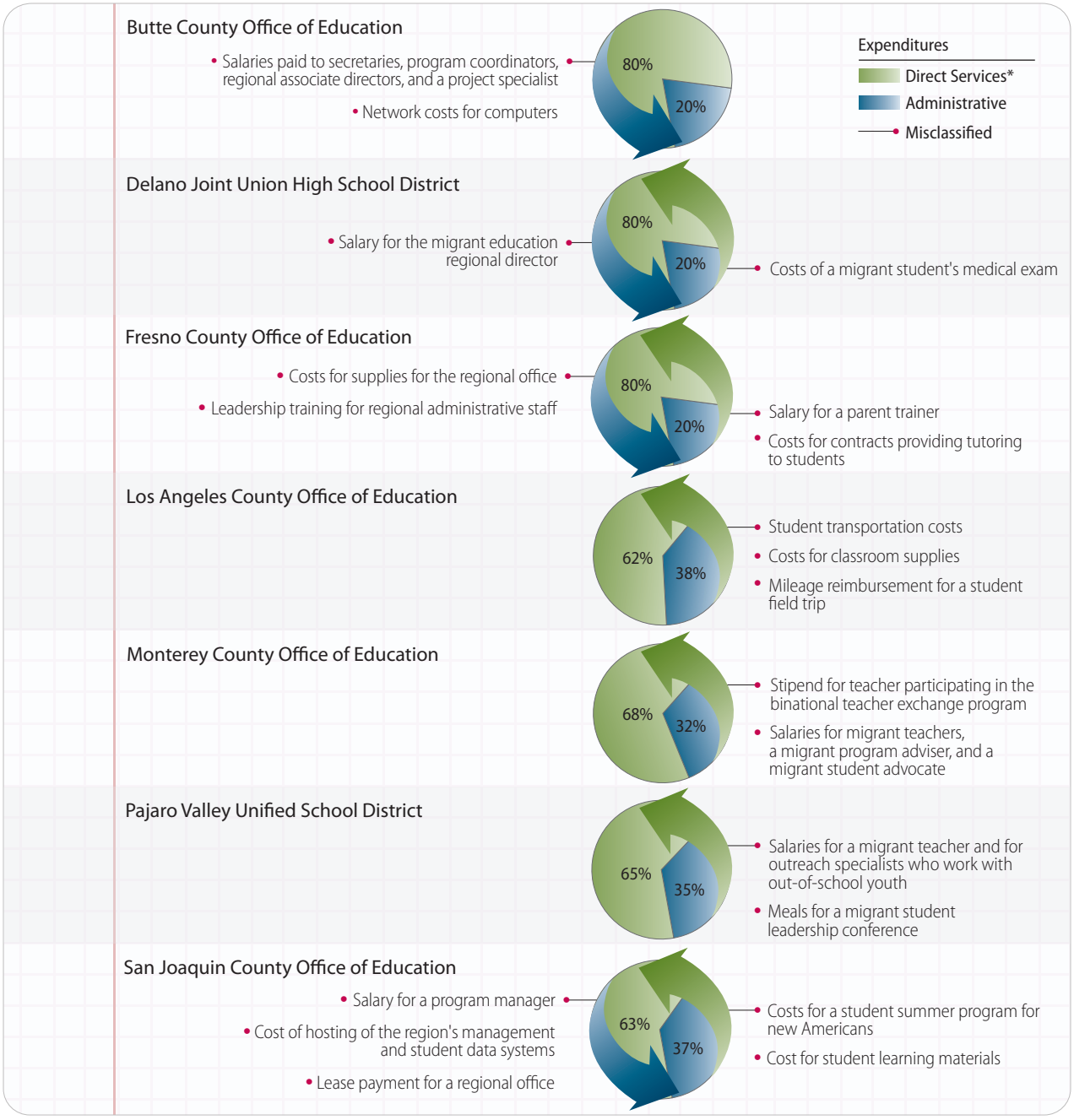
Even without any errors in the regions' coding of expenditures, Education's methodology for calculating regional administrative costs can lead to incorrect results. We found 11 expenditures that regions coded appropriately but, under Education's retroactively applied classification system, would be incorrectly designated as either administrative or a direct service. For example, Education's methodology considers all expenses with the accounting code "Instructional Supervision and Administration" as administrative costs. On the surface, Education's classification of this accounting code as an administrative expense appears reasonable. However, based on the description in Education's accounting manual, Pajaro Valley included within this code the salary of two migrant outreach specialists who perform direct services to migrant students. Although Pajaro Valley could have included these expenses in a different code—one that would have made Education's administrative cost calculations correct—it would not have known this at the time it classified these expenses.

Even without any errors in the regions' coding of expenditures, Education's methodology for calculating regional administrative costs can lead to incorrect results.

Two of the 11 expenditures that were classified incorrectly did not relate to the ambiguity of how certain migrant program expenditures were classified but instead were caused by Education incorrectly designating a particular accounting code—"Other Instructional Resources"—as an administrative expense rather than a direct service. For example, a district within the Los Angeles County Office of Education (Los Angeles) used this code for student learning materials, which is a direct service to migrant students. However, Education's classification of this code would have caused these expenses to be included in Los Angeles' administrative cost percentage. Figure 1 on the following page illustrates Education's cost calculations for Los Angeles and other regions we visited, along with expenditures from our review that would have affected Education's percentages.

Because of the inconsistencies in coding expenditures among the different regions and the errors in coding within individual regions, the data Education used to examine administrative costs across all regions were unreliable for that purpose. Since regions code similar expenditures differently, it is inaccurate to consider that all costs charged to a single code are uniformly related to either administration or direct services. Further, when regions do not follow the guidance given in the accounting manual, their reporting of expenditures at a summary level is less reliable.

Figure 1
Migrant Program Expenditures That Would Have Distorted the California Department of Education's Administrative Cost Calculations



Sources: California State Auditor's review of a selection of expenditures in eight migrant program regions and California Department of Education's (Education) classification of administrative expenses.

Note: Percentages shown in the pie charts are the average of Education's cost calculations from fiscal years 2008–09 and 2009–10. Example expenditures shown in this figure are from a random selection of 40 expenditures in each migrant program region from fiscal years 2009–10, 2010–11, and 2011–12. Education completed its cost calculations in summer 2011, and the examples above would still be applicable.

* These direct services percentages include costs related to identification and recruitment.

During testimony before an Assembly budget subcommittee in May 2012, the deputy superintendent over the migrant program office admitted that Education was not sure if the administrative cost calculations were accurate or not. Speaking on the need for further investigation, she stated, "We're not sure if [the high administrative cost percentages] are real, or if it is an accounting problem, or if [the regions] are writing it down incorrectly, or it's our lack of technical assistance in providing the correct definition for what is truly a direct service versus administrative service." The administrative cost calculations Education performed were raised as a subject in another legislative hearing held in May 2012, and, in an April 2012 budget request letter, Education characterized its own calculations as OME findings, stating that "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."

This type of rhetoric, as well as the calculation of administrative costs itself, has been a source of tension between Education and some of the regions. In a January 2011 e-mail to the regional directors, the former migrant program administrator acknowledged that the definition of administration and direct services had been a subject of great debate. Since then, one regional director told us that there is a difference of opinion as to what is considered an administrative activity versus a direct service. Another regional director we spoke with expressed concern that Education had made statements to the federal government and the Legislature about the administrative costs in his region, which he felt were inaccurately calculated. Further, regions have questioned Education's attempts to impose a 15 percent administrative goal on migrant funds, as described in the regional application and in the text box, noting that such a goal applies to other federally funded programs but that the Education Code specifically exempts the migrant program from keeping its costs below that threshold.

California Department of Education's Administrative Cost Goal for the Migrant Education Program

"The 85/15 ratio is the target set for [regions] in accordance with the guidance from the State Superintendent of Public Instruction. This is a recommended goal. Please note that applications will be reviewed to ensure that the ratio of service to administration is necessary and reasonable given the context of the service area."

Source: California Department of Education's 2012–13 regional application.

In its 2012–13 regional application, some of the costs that Education considered administrative were the following:

- Salaries for migrant program managers and associate directors.
- Salaries for executive assistants, senior secretaries, and administrative assistants.
- Salaries for accountants, data entry clerks, and office assistants.

- Salaries for identification and recruitment staff.
- County or district indirect costs.[14]

Education also provided regions with inconsistent guidance regarding indirect costs. In May 2012 Education created a question-and-answer document related to the 2012–13 regional application that stated that indirect costs are not a part of the 15 percent administrative cost goal. However, Education specifically included indirect costs in a listing of administrative costs in its 2012–13 regional application. Fiscal staff at one region stated that this indirect cost inclusion makes it impossible for the region to keep its administrative costs under 15 percent. From July 2009 through June 2012, the eight regions we reviewed had indirect cost rates of between 3 percent and 11 percent.

In addition, some regional directors stated that the identification and recruitment of migrant students, which is a required activity, should not be counted against the administrative cost goal. One regional director explained that identification and recruitment is an activity that other federal programs with a 15 percent administrative cap do not have to perform. Another regional director stated that it does not make sense to include recruiters against the administrative cost goal because they are often the first line of service to migrant students. The migrant program director stated that, after receiving the 2012–13 applications from the regions, Education decided that identification and recruitment would not count against the 15 percent administrative cost goal. We agree that this is the correct approach.

Because of its regional administrative cost calculations, Education has had further federal grant conditions placed on the migrant program and does not currently have a plan to address those conditions.

Because of its regional administrative cost calculations, Education has had further federal grant conditions placed on the migrant program and does not currently have a plan to address those conditions. OME asked Education to submit a plan for providing a complete and accurate report on administrative costs of the migrant program's subgrantees (regions) by December 2011. In its October 2012 periodic update to OME, Education stated that regions would be required to certify that all regional costs comply with federal and state guidelines. However, asking regions to certify that they meet federal and state requirements is not a new practice. Education asks each region to sign that same assurance every year as a condition of receiving migrant program funds. Further, asking regions to follow applicable guidelines will not result in a complete and accurate report on regional administrative costs. OME has

[14] *Indirect costs* are those general management costs that are agencywide. These costs consist of expenditures for administrative activities necessary for the general operation of the region, such as accounting, budgeting, payroll preparation, personnel management, purchasing, and centralized data processing.

recently responded to Education stating that the proposal to have regional directors sign certifications does not satisfy its request and stated that Education should submit a plan to provide an accurate calculation of administrative costs by March 15, 2013. As it considers this plan, Education should ensure that it addresses issues such as the inconsistent coding of similar expenditures and the lack of direction it provides regions about coding migrant program expenditures.

Education Has Not Fully Addressed the Federal Government's Concerns About California's Program Eligibility Determinations

The number of children eligible for the migrant program is a crucial metric because it is the primary driver for the allocation of funding. Both the federal and state entity consider the number of eligible children in determining the amount of funding a recipient or subrecipient will receive. However, the reported number of eligible children in California has not always accurately reflected the true number of eligible children.

In 2006 a federal review of a random sample of children in the migrant program found a high percentage who were actually ineligible. Although Education indicated it took corrective action, its 2009–10 report identified eligibility discrepancy rates that are still considered high by OME.

In 2006 a federal review of a random sample of children in the migrant program found a high percentage who were actually ineligible: the *discrepancy rate*. The federal review agency recommended increased training and quality control practices at the regional level. To follow up on this review, Education directed its regions to conduct interviews, known as *re-interviews*, in fiscal year 2009–10 with a sample of migrant parents, to reassess their children's eligibility to receive migrant program services. Although Education indicated that it took corrective action after the 2006 federal review, such as updating its identification and recruitment handbook, its 2009–10 prospective reinterview report identified regional discrepancy rates that are still considered high by OME. As a result, OME combined the 2006 finding with issues from more recent federal reviews completed in 2011 to place a grant condition on Education's 2012 grant award. In July 2012, Education submitted a plan to OME to identify eligibility discrepancy rates by having a contractor reinterview migrant parents to verify a sample of eligibility determinations. After being delayed, the contractor's final reinterview report was submitted in December 2012. This 2011–12 prospective reinterview report demonstrated an overall state discrepancy rate of 8 percent, which is a slight decrease from its 2009–10 discrepancy rate of 9.1 percent. OME has not yet commented on this report; however, it previously stated that as long as the statewide discrepancy rate remains above zero, Education will be required to take corrective action. Appendix B of this report shows Education's most up-to-date response to this and other federal findings.

Recommendations

To minimize the potential for disagreement over allowable migrant program costs, Education should better define the criteria by which it will consider program costs allowable and include those criteria in the migrant program fiscal handbook it provides to the regions.

To demonstrate its willingness to fairly evaluate regional expenditures, Education should allow San Joaquin to reimburse its general fund for the vehicle purchase Education incorrectly disallowed.

To improve its understanding of regional expenditures, Education should increase the level of detail required in its quarterly expenditure reports. The level of detail should allow Education to select expenditures for review.

For regions that have not recently received a federal monitoring review, Education should use the detailed expenditure reports to select a sample of expenditures, request supporting documentation from the regions, and then review the expenditures to determine if they meet applicable federal and state criteria.

As part of the reviews based on quarterly reports, Education should verify that regions are using the appropriate accounting codes to classify their expenditures.

To guard against future conflicts of interest, San Joaquin should complete its evaluation and revision of its procurement policies and procedures, update its conflict-of-interest code, and ensure that all its managers receive conflict-of-interest training.

Education should follow up with San Joaquin to ensure that it takes the actions we recommend.

To address problems with its methodology for calculating administrative costs, Education should do the following:

- Review the regions' current use of accounting codes to identify the areas in which regions differ in accounting for similar migrant program costs.
- Provide regions with more specific direction about how to charge these expenses.
- Revise its list of accounting codes that it considers administrative in light of its review of regional coding.

Once it has addressed the underlying issues with regional accounting, provided direction to regions about which expenditures it will consider administrative, and obtained accurate expenditure data, Education should review its administrative cost goal to ensure that this goal is reasonable given the requirements of the migrant program.

To address past federal findings that are not yet resolved, Education should respond as recommended in Appendix B of this report.

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Chapter 2

CALIFORNIA'S MIGRANT EDUCATION PROGRAM SUFFERS FROM STAFFING TURNOVER AND LIMITED PERFORMANCE DATA

Chapter Summary

The California Department of Education (Education) faces significant challenges in staffing and in program evaluation as it attempts to improve its migrant education program (migrant program). At the same time that it has faced a number of federal inquiries, Education has lost a number of migrant office staff, as turnover among the staff in this office has been quite high. During this time, the relationship between staff at the migrant program office and the program's regional directors has deteriorated, and that relationship now faces significant challenges. Additionally, Education has not completed a current evaluation of the statewide effectiveness of the migrant program, and it faces significant challenges in doing so. Currently, the data collected about migrant students and migrant student achievement fall short of what would be required to effectively evaluate the program. These limitations affect Education's ability to evaluate its statewide service contracts and the migrant program's overall structure. Finally, although Education has taken positive steps in its involvement with the agendas and the annual report of its state parent advisory council (state parent council), its oversight of the makeup of the council's membership is not adequate to ensure ongoing compliance.

Frequent Turnover Among Management and Staff Drains Experience and Expertise from Education's Migrant Program Office

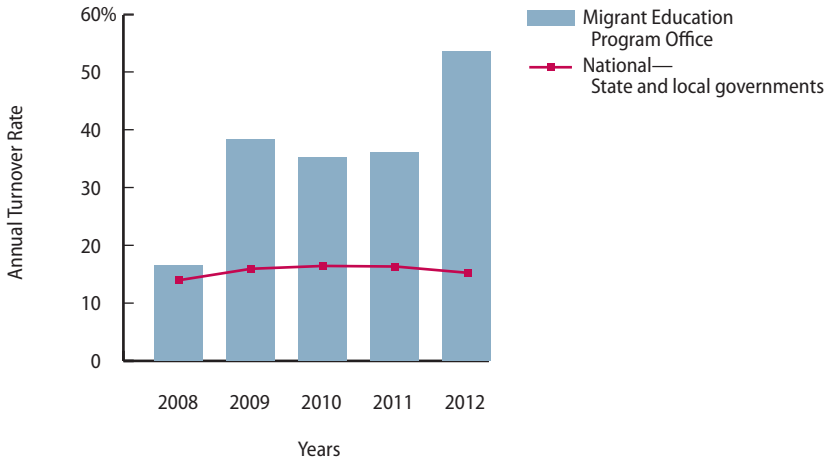
Education has experienced a reduction in the number of staff in the migrant program office, meaning that fewer staff are available to address program concerns. Specifically, in the past four years, the number of staff in the migrant program office has declined from 13 in January 2008 to 10 in November 2012.[15] Additionally, some of the staff assigned to provide technical assistance to the regions have been with the migrant program for only a short time. Although both of the migrant office's fiscal analysts have worked with the office for at least four years, only two of the four current program staff members were with the migrant office as of two years ago. As the Introduction explains, the migrant program staff are

[15] In January 2008 the migrant office had 13 full-time staff and management positions, all of which were filled. In November 2012 the migrant office had 11 full-time positions, 10 of which were filled. Thus, two positions were eliminated during this time period.

Education's day-to-day liaisons to the regions and are responsible for offering the regions guidance. Therefore, the loss of staff positions, combined with the presence of newer, less experienced staff in key positions, likely contributes to a drain on the knowledge base available to the migrant program office as it guides programs in its regions.

In addition to experiencing a loss of positions, Education has undergone high staff turnover in its migrant program office. This turnover coincides with many pressing issues related to the migrant program, including the migrant program office's need to address a large number of required responses resulting from federal reviews. As a recipient of federal funds, Education is required to maintain processes to ensure compliance with applicable laws and regulations (internal controls). Our standards require us to examine Education's internal controls, including a review of the control environment. One factor in a positive control environment is the absence of excessive turnover among key personnel. Figure 2 shows the annual turnover that the migrant program office has experienced since 2008. The average turnover in the past four years has been over 30 percent, with turnover rising to above 50 percent in 2012. By comparison, the national average that the Bureau of Labor Statistics reports for state and local government employee turnover during the same period was roughly 15 percent.

Figure 2
Staff Turnover at the California Department of Education's Migrant Education Program Office
2008 Through 2012



Sources: California State Auditor's analysis of the migrant education program office's organization charts for 2008 through 2012 and of state and local government turnover rates published by the Bureau of Labor Statistics.

Over the past three years, four different individuals have served as administrator for the migrant program, including the current administrator, who filled that position in January 2013. Further, this position was vacant for eight of those 36 months. At the same time that it has experienced these staffing challenges, Education was tasked with a heavy workload surrounding its response to several federal inquiries. Partially in response to the inquiries, Education has also been attempting to change several key aspects of its migrant program, such as the regional application review process, the measurement and management of administrative costs, oversight of the state parent council, and policies related to equipment purchases. The migrant program director reported that staff turnover has increased the workload for the remaining staff, who have had to take on roles they had not previously been responsible for. It is likely that making such significant changes to the program without experienced leadership and staff has led to some of the difficulties currently facing Education and the migrant program.

During this period of high turnover, Education has relied on new staff members to complete key tasks, causing inefficiency and wasted time for the regions and for staff in the migrant program office. For instance, one program staff member was chosen, in her first month of being employed at the migrant program office, to lead the complete redesign of the program's regional application for the 2012–13 school year. Many of the changes Education made to the application required the regions to complete a significant level of additional work in order to collect data that Education had not previously required the regions to provide. However, after receiving comments from the regions, Education's migrant program director agreed that the revised application did not help, and instead only further complicated the process. She stated that neither the former application process nor the revised one was streamlined to include a clear assessment of regional needs that linked to program decisions. The loss of institutional knowledge within the migrant program office likely hindered Education's ability to notice the revised regional application's problems before it distributed the application to the regions.

During this period of high turnover, Education has relied on new staff members to complete key tasks, causing inefficiency and wasted time for the regions and for the migrant program office.

Strained Relationships With Migrant Program Regions Likely Impede Education's Collaboration With Regional Leadership

In light of Education's high turnover rate and lack of long-tenured staff, the migrant program could benefit from drawing from the regional directors' knowledge and program experience. However, Education's migrant program office and some regional directors have a history of inconsistent communication and, at times, adversarial relationships. The regional directors meet periodically

as a council, and Education is sometimes present at those meetings. However, a July 2011 letter from the council to Education's former migrant program administrator stated that the regional directors' council was concerned about the communication between Education and the regional directors. The former chair of the regional directors' council stated that under the former migrant program administrator, he struggled to receive input or assistance from Education. Education's current migrant program director stated that she feels most regional directors are looking toward the future but that some continue to bring up past issues with Education and resist program changes.

According to both regional directors and Education's migrant program staff, Education did not seek input from the regional directors when developing the methodology for determining administrative costs.

Education's calculation of regional administrative costs is an example of one factor that caused the strained relationship between the regional directors and Education. As Chapter 1 discusses, Education attempted to calculate each region's administrative cost percentage in response to a federal request. Migrant program staff who assisted in calculating administrative costs acknowledged that each region tracks migrant education expenses differently because Education has not provided guidance on how to accomplish uniform coding. Given this lack of prior guidance, its awareness of inconsistent expenditure tracking across regions, and the significant potential impact of federal findings for the migrant program overall, Education had an ideal opportunity to solicit input from knowledgeable stakeholders such as the regional directors. However, according to both regional directors and Education's migrant program staff, Education did not seek input from the regional directors when developing the methodology for determining administrative costs. Instead, migrant program staff calculated costs independently, the results of which increased concerns already expressed by the federal Office of Migrant Education (OME).

This scrutiny of administrative costs affected regional directors and created frustration with Education's process. Not only did Education's administrative calculations lead to an additional federal grant condition, but its report also led OME to single out certain regions with apparently high administrative costs. In a response to a July 2011 OME review of the migrant program, the regional directors' council prepared a report to offer corrections and suggestions related to administrative cost levels and other issues. The regional directors' report states that the council fully supports an examination of administrative costs, but it criticizes Education's calculation methodology as well as the application of a 15 percent cap on administrative costs that does not apply to the migrant program. Further, the regional directors note the importance of working together with Education in the future to accurately address federal concerns. The report also stated that with additional time

and study, regions could assist the migrant program in providing the appropriate data to address the federal findings related to administrative costs.

Despite the mutual benefits such cooperation could afford, the possibility of future collaboration between the regional directors and Education appears significantly diminished by an apparent lack of trust and the strained relationship between them. Some regional directors made statements that suggest a level of mistrust of Education and of staff in the migrant program office. For example, two regional directors claimed that Education's program staff lack knowledge about migrant education or experience with the migrant program and told us that the relationship with Education had deteriorated as leadership at Education has turned over. Two other regional directors to whom we spoke mentioned receiving inconsistent and unclear communication from the migrant program office. Education's new migrant program director stated that she has recently put a focus on clear and consistent communication with regional directors. On the other hand, she also acknowledged that certain conversations with some regional directors are still unproductive. While recent changes in the leadership of the migrant program office may spur potential improvements, Education must continue its efforts to improve the strained relationship with some regional directors, or obstacles to effective collaboration will persist.

Education must continue its efforts to improve the strained relationship with some regional directors, or obstacles to effective collaboration will persist.

Education Has Not Evaluated the Migrant Program's Effectiveness, and Available Performance Data Are Limited

Education has not yet completed an evaluation of the migrant program's effectiveness. Without such an evaluation, Education cannot know whether the services offered statewide are achieving the targeted outcomes in its migrant education statewide plan. However, limited performance data on the migrant program prevent Education from completing a thorough evaluation. Data that Education collects for the migrant program do not allow Education to see the specific services that migrant students receive, nor do the data allow the program to easily identify the impacts of those services. In the absence of adequate tracking tools provided by Education, some regions have developed their own student databases to better analyze their services to migrant students and the outcomes those students attain after service delivery. In addition to collecting only limited performance data, Education has not yet fully addressed federal concerns about the data that support the migrant student counts it reports to the federal government.

Education Has Not Evaluated Its Migrant Program as Required, and Limited Student Service Information Will Hamper Its Efforts

Despite a federal requirement to evaluate the migrant program, Education has not produced an evaluation of the program's effectiveness in the past. Consequently, Education is hampered from knowing whether the program is achieving the desired outcomes. Federal regulation requires that Education determine the effectiveness of its migrant program through a written evaluation that measures the implementation and the results achieved by the program (statewide evaluation). Specifically, Education is required to measure the migrant program's progress against the goals it outlined in its migrant education statewide plan. According to the migrant program director, Education has contracted out preparation of the statewide evaluation to a consultant. The migrant program staff member overseeing this contract stated that the expected completion of this evaluation was postponed from its original due date of June 2012 until March or April 2013 due to unforeseen obstacles in gathering reliable data.

Though Education currently has access to some migrant student data, the depth and breadth of detail fall short of the amount of information necessary for the statewide evaluation currently being prepared to meet the federal guidance. According to guidance from OME, an evaluation of program results is conducted in order to judge the merit of that state's migrant education program. The guidance explains that such an evaluation may determine whether a particular instructional or support service is achieving the desired results, or the evaluation may compare the results of several interventions to see which one is the most effective. However, according to the contractor who oversees the Migrant Student Information Network (MSIN), the information in the State's migrant-related databases is not detailed enough to provide rich information about the migrant program at a regional or state level.

According to the draft version of the statewide evaluation, the contractor found that it could evaluate only nine of the 18 measurable outcomes in the migrant education statewide plan.

Draft copies of the statewide evaluation support this assertion. According to the draft version of the statewide evaluation, the contractor found that it could evaluate only nine of the 18 measurable outcomes in the migrant education statewide plan. For example, there was not sufficient data statewide to evaluate the number of migrant children attending preschool or the number of migrant students completing the courses required for state university admission. Additionally, the contractor stated that it had to base its conclusions for eight of the nine measurable outcomes on alternative measures rather than those outlined in the statewide plan. For instance, due to data limitations, instead of reporting on the percentage of migrant students meeting local course requirements and being on track to graduate from high school, the contractor evaluated the number of migrant students who graduated on time, based on enrollment records. However, as the contractor noted, the

migrant students counted as not graduating on time are not limited to those without sufficient credits to graduate but also include migrant students who dropped out of school or moved out of California during the school year.

Most of the information collected by Education about the migrant program is geared toward completing another required report, the federal Comprehensive State Performance Report (performance report). Federal law requires Education to annually submit information on eligible migrant students and their assessment and achievement data through the performance report. The text box shows key information that the performance report must include. Education's contractor stated that the migrant student databases currently contain enough quantitative information to complete the performance report. While collecting this information may be sufficient to complete the performance report, it is insufficient to allow Education to produce a thorough statewide evaluation.

Information Required in the Comprehensive State Performance Report

- The number of eligible migrant children.
- The number of migrant students who are proficient in mathematics, reading and language arts, and science.
- The high school graduation and dropout rates of migrant students.
- The number of migrant students who participated in state assessments for reading and language arts and mathematics.
- The number of migrant students during the school year and summer who received specified services.

Source: California State Auditor's summary of the federal Comprehensive State Performance Report.

Education's MSIN and its regional counterpart, COEStar, are not currently equipped to record detailed migrant program service information. Currently, regions record the services they provide migrant students in the COEStar database. Although regions have a wide variety of services they provide, these services are categorized into the six broad categories defined by the performance report, such as *reading instruction* or *other support service*. Services that differ greatly could be categorized identically in the statewide database. For example, a 14-week reading program conducted by certified teachers and a one-day reading program led by noncertified staff would both be categorized as *reading instruction*. With this highly summarized level of information, it is difficult to assess the true depth of service being provided to migrant students and the effectiveness of those services compared to one another. Education's contracted manager of MSIN agreed that any analysis of the correlation between migrant students receiving reading instruction services and their English language performance is problematic because a wide variety of services can fall under that single service category.

Additionally, Education faces challenges in gathering statewide assessment data for all of the eligible migrant students. The migrant student database is separate from the state assessment data systems. According to the contracted manager of MSIN, Education has had difficulty accurately identifying students as migrants within the state assessment data systems. Specifically, in the performance

In the performance report covering the 2010–11 school year, Education reported that more than 87,000 migrant children in grades 3 through 12 were eligible for services, but it could find assessment data for only 47,000 migrant children (54 percent).

report covering the 2010–11 school year, Education reported that more than 87,000 migrant children in grades 3 through 12 were eligible for services, but it could find assessment data for only 47,000 migrant children (54 percent). Although Education is currently working with a contractor to address this problem, until it is resolved, this lack of assessment information poses an additional obstacle to completing a program evaluation that aligns with federal guidance.

According to the migrant program director, a statewide evaluation would be useful for identifying areas that need improvement. However, she stated that the lack of an overall formal assessment was less of a concern because the migrant program office has already identified, and is busy resolving, the biggest problems highlighted by OME reviews. While we acknowledge the value of continuing to address OME concerns, these efforts are not a substitute for assessing the effectiveness of specific migrant program services. Without the statewide evaluation, the migrant program office has limited ability to determine whether the services it funds are achieving identified outcomes and whether they should continue.

Some Regions Have Developed Their Own Databases to Track Students and Services

In the absence of strong statewide data collection for the migrant program, several regions have developed additional databases to help them manage their migrant student population and better understand the impact of the services they provide to these students. Of the eight regions that we visited, we found that six use another system in addition to the COEStar system to track migrant students and services. At one of these regions, the region's information technology supervisor explained that the region developed its local system in order to better track service delivery and help the region ensure that only eligible students are enrolled in migrant program services. Another region we visited uses the district's existing student database to assist it in tracking migrant students and their academic progress.

One of the regions we visited, Pajaro Valley Unified School District (Pajaro Valley), has a student database (Nexus) that tracks detailed information on services provided to migrant students, including the frequency and duration of the service and the language of instruction, and it allows for notes related to the migrant program services. Pajaro Valley's regional director also stated that he can use Nexus as a management tool by monitoring information such as the number of migrant students each staff member is serving. In addition, Nexus apparently allows the regional staff to track

the migrant students who have not received service and to set reminders in the system, such as a notification that a migrant student's eligibility will soon expire. Nexus pulls information from other data systems to capture a variety of data on migrant students, including academic performance, to provide to migrant program staff. This allows Pajaro Valley to evaluate the effectiveness of its various programs. For example, using Nexus, the region produced a report showing the pre- and post-assessment results for migrant students who participated in one of its reading interventions. During the 2011–12 school year this report shows that, on average, the pre- and post-assessment reading scores of migrant students who received additional reading instruction in small groups improved by almost a whole grade level.

In its 2010–11 regional application, Pajaro Valley allocated $50,000 of its funds toward development of its data system. After contacting the region for additional clarification, Education approved the use of these funds on the condition that Pajaro Valley agree to collect only data for the migrant program within its region. In a December 2012 letter to the region, Education repeated this condition and added two more, requiring that the region verify compliance with the district's confidentiality protocols and that it not store data on non-migrant students in Nexus. When asked about these conditions, the migrant program director stated that Education imposed these conditions on Pajaro Valley because Education lacked clear data about the system's overall use and effectiveness and was concerned about $40,000 in ongoing costs to maintain and further develop the system. However, as far back as 2010, the regional director for Pajaro Valley extended invitations for staff from the migrant program office to review the data system and its data tracking capabilities, but they appear not to have done so, despite having provided previous funding.

As far back as 2010, the regional director for Pajaro Valley extended invitations for staff from the migrant program office to review the data system and its data tracking capabilities, but they appear not to have done so, despite having provided previous funding.

The regions' development and use of their own data systems demonstrate a desire among the regions to better track migrant program services and to know whether the services they are providing are having their intended effect, a desire not being satisfied by the migrant program's current statewide data systems. We believe that data systems that can facilitate program evaluation and allow migrant program staff to determine the effectiveness of specific student services warrant further investigation by Education. The migrant program office could benefit from analyzing the capabilities of current regional systems, such as Nexus, and from either encouraging the regions to share the best technological solutions or incorporating such solutions into statewide systems.

Education Continues to Work on Increasing the Accuracy of Its Reported Number of Migrant Students

Education produced required federal reports that contained inaccurate information about the number of students enrolled in the migrant program. In a June 2012 letter, the federal Office of Elementary and Secondary Education (OESE) stated that Education reported "inaccurate, misleading, and, in some respects, worthless" data regarding the migrant program. Specifically, OESE expressed concern about the large discrepancy between the number of migrant students eligible for the migrant program and the number of these students participating in student performance assessments.

As discussed previously, federal law requires Education to annually submit information on eligible migrant students and their assessment and achievement data through the performance report. Since MSIN does not contain information on student assessment data, Education relied upon individual local educational agencies—such as school districts—to correctly flag migrant students when preparing the student's state assessment test sheet. However, according to Education's contractor, local educational agencies may not always correctly flag migrant students. Specifically, for the 2009–10 and 2010–11 program years, Education's contractor asserted that roughly half of the students marked as migrant by the local educational agencies did not exist in the MSIN. As a result, Education reported a large discrepancy between the number of migrant students eligible for the migrant program and those participating in state assessments. For example, Education reported that of the more than 87,000 eligible migrant students that should have been assessed during the 2010–11 school year, about 47,000 participated in the performance assessments.

According to Education's contractor, local agencies may not always correctly flag migrant students. For the 2009–10 and 2010–11 program years, Education's contractor asserted that roughly half of the students marked as migrant by the local educational agencies did not exist in the MSIN.

In response to these discrepancies, OESE required Education to develop a corrective action plan that would increase the accuracy of its federal reporting. To accomplish this, Education and its contractor conducted a process to match migrant student records in MSIN to the student information in the California Longitudinal Pupil Achievement Data System (CALPADS), the State's database that maintains individual student-level data. Education and its contractor matched various combinations of data elements in the MSIN—such as the migrant student's first name, last name, date of birth, and school code—with the same information in CALPADS to identify migrant students' Statewide Student Identifier (SSID), the unique number used in CALPADS to track individual students throughout the State. On January 31, 2013, Education reported—for grades 3 through 9—that this matching process has led to an increased number of migrant students' SSIDs being identified. However, we were not able to verify these results because our fieldwork had ended prior to the release of this report.

Education asserted that its use of this electronic matching process minimized the amount of manual review required to identify migrant students' SSIDs. Additionally, Education indicated that it is currently evaluating the possibility of providing migrant program staff read-only access to CALPADS, allowing them to identify a migrant student's SSID at the time of enrollment, if available. Education indicated that it plans to use migrant students' SSIDs to identify their assessment and achievement data. If it implements its plan, Education will no longer have to rely on local educational agencies to correctly flag migrant students when preparing the student's state assessment test sheet. Instead, Education will report the total number of migrant students in the migrant program from the MSIN and their related assessment information.

If it implements its plan, Education will no longer have to rely on the local educational agencies to correctly flag migrant students when preparing the student's state assessment test sheet.

Education's Evaluations of Its Statewide Contracts Are Limited

Education's evaluations of its statewide migrant program contracts, which total more than $13 million annually,[16] are limited to a one-page standard form required by the Department of General Services (General Services). This brief form requires staff to indicate whether the contractor successfully met the requirements of the contract but does not facilitate a more robust determination of whether the contract is an efficient and effective use of program funds. Migrant program management has expressed a desire to better evaluate these contracts and recently took steps to rebid and redesign the services of a statewide contract that they perceived as not being cost-effective. These recent actions highlight the possibility of creating a cost-per-student measure that migrant staff could use to regularly evaluate contracts. Even so, the data limitations described earlier in this chapter will likely hinder Education's ability to evaluate whether specific program services administered through a statewide contract are having a sufficient impact on migrant students' academic achievement.

Each of Education's statewide contracts meets one of two broad purposes. The first purpose is to provide services to migrant families, parents, and children statewide. Contracts meeting this purpose range from tutoring services to a hotline number that provides information about the migrant program. The second purpose is administrative and involves providing services to the migrant program and its regions. Contracts meeting this purpose include those for the management of migrant student databases and for the evaluation of the migrant program. Table 4 on the following page provides a brief overview of Education's statewide contracts.

[16] This total does not include $5.5 million distributed through regional grants for a statewide school readiness program.

Table 4
Statewide Contracts Held by the Migrant Education Program

CONTRACT	DESCRIPTION	CONTRACTOR	CONTRACT VALUE FISCAL YEAR 2011–12
California Mini-Corps Program	Tutoring program	Butte County Office of Education	$7,100,000
Migrant Student Information Exchange, Migrant Student Information Network	Data support	WestEd	1,860,869
Portable Assisted Study Sequence	Distance learning	Fresno County Office of Education	1,818,083
COEStar System	Migrant eligibility database	TROMIK Technology Corporation	1,017,549
Migrant Education School Readiness Program	Program coordination, training, and technical assistance	Butte County Office of Education	505,903
Migrant Scholars Leadership Institute	College preparation	University of California, Los Angeles	502,614
State service delivery plan evaluation	Migrant program assessment	WestEd	242,645
Migrant Education Portal	Professional development and parent training	Butte County Office of Education	100,000
National migrant education toll-free hotline	Information service	Research Foundation of SUNY	94,293
Eligibility reinterviews	Migrant child count accuracy	Fresno County Office of Education	49,999

Source: California State Auditor's review of contracts held by the California Department of Education's migrant education program office as of December 2012.

Education's staff completes a General Services' standard form at the end of each contract term that evaluates whether the contractor has fulfilled the requirements of the contract. This form is required for all consulting services contracts with a value over $5,000. However, for the contracts that Education issues to provide services to migrant students, this form provides only a limited review of the efficiency or effectiveness of a contractor's work. The form does not direct staff to consider whether the contract under consideration is the most effective way to provide services to migrant students. Additionally, staff completing this form review the services provided by the contractor in isolation from the other services offered by the migrant program. For all of its administrative contracts, the migrant program office generally appeared to complete these forms. However, we found one instance in which the form did not record problems with the contractor's performance, such as the contractor's delay in delivering the work required by the contract.

Education's leadership has acknowledged that the efficiency and effectiveness of the migrant program contracts needs closer examination. Speaking at an Assembly budget subcommittee hearing where she discussed the need for a more thorough review of migrant program contracts, the deputy superintendent over the migrant program testified, "We have some serious concerns and questions about some contracts and their use. Are we getting [the best] bang for our buck?" In one case, Education determined that its contract for a summer academy for migrant students is

not cost-effective. According to the migrant program director, Education decided to rebid this contract for a summer academy held at the University of California, Los Angeles (UCLA) campus because management at Education were concerned that the cost per migrant student of that contract was too high. In fiscal year 2011–12, Education's contract with UCLA was worth $502,614, but its program reached only 100 migrant students for a month each summer at a cost of $5,026 per student. Education has taken a positive step in analyzing this contract using a measure that, while limited, could be applied across multiple contracts. Although other migrant program contracts have thus far lacked a similar examination, Education is currently reviewing these contracts.

In fiscal year 2011–12, Education's contract with UCLA was worth $502,614, but its program reached only 100 migrant students for a month each summer at a cost of $5,026 per student.

For example, among Education's service-related contracts, the largest is the California Mini-Corps (Mini-Corps) program run by Butte County Unified School District (Butte) for approximately $7 million per year. Mini-Corps is a tutoring program designed to assist migrant students by providing them with a bilingual tutor who is a former migrant student. Education's contract with Butte requires annual evaluations, which Mini-Corps completes by having its data contractor provide various program descriptions and statistics. Although it appears that Butte submits this report every year, the data provided by Mini-Corps do not include an assessment of academic performance using local standards-based tests. Instead, these annual reports measure student abilities in three different academic areas using an average of teacher assessments for these areas. Further, we found no indication that Education used the information supplied annually by Mini-Corps or its cost-per-student measure to determine whether the benefits of Mini-Corps warranted its costs.

Education has assigned the task of reviewing the efficiency and effectiveness of the migrant program contracts to an external team of reviewers. While the cost-per-student ratio is a good first step toward a measure that can be applied to all migrant service contracts, Education needs to develop this measure further to enable it to more completely analyze a contract's efficiency. For example, Education could calculate the cost of providing the contracted service to a migrant student over a specific period of time, such as a month. Such a measure would allow Education's migrant staff to compare contracts providing different services against one another in terms of efficiency. However, as previously discussed, the lack of robust data in the State's migrant program databases will hinder Education's efforts to analyze the effectiveness of these services at improving academic outcomes.

A Lack of Reliable Data Limits Education's Ability to Examine the Effectiveness and Efficiency of Its Regional Service Delivery Structure

Without better information about its migrant program's effectiveness and administrative costs, Education has limited ability to evaluate whether its current regional model is an effective and efficient means to deliver services to migrant children. Education has tasked an external team of reviewers with, among other things, reviewing the regional model and developing recommendations for an alternative. Education's deputy superintendent over the migrant program stated that Education wants to explore best practices for better student achievement and administration of the program. As discussed earlier in this report, Education has not completed an evaluation of the effectiveness of the migrant program and currently lacks a reliable method for calculating the administrative costs of the migrant program regions. Ostensibly, these data would help Education determine which types of service delivery methods—directly funded districts, regional offices overseeing district efforts, regional offices providing direct services, or statewide service contracts—improve migrant student performance in the most cost-effective manner. Without this critical information about migrant student outcomes and the use of funding, Education cannot make fully informed decisions about whether its regional model is preferable to some other delivery system.

Without critical information about migrant student outcomes and the use of funding, Education cannot make fully informed decisions about whether its regional model is preferable to some other delivery system.

We reviewed the service delivery models of Texas and Florida—two states with large populations of migrant students—and found that these states, like California, directly fund school districts as well as some regional offices or consortiums. In Texas, 210 school districts operate independent migrant programs that are directly funded by the state program, and 13 educational regions also receive funds. Florida directly funds 35 school district migrant programs and two regional migrant programs.[17] As indicated by these data, both of these states tend to directly fund more school districts than California's program, which directly funds nine school districts out of the 23 total regions. Even so, California's more frequent use of regional offices to provide services or to oversee the efforts of individual school districts could be a viable model if administered effectively. However, Education has struggled to provide critical components of effective program administration, such as clear and consistent communication, ongoing monitoring of program activities, and evaluation of program results using reliable data. Until it makes improvements in these areas, Education will not be in a position to effectively evaluate its migrant program service delivery model.

[17] Data on the number of school districts and regions in Texas are current as of May 2011. The most recent data available for Florida are as of 2005.

Education Has Improved Its Involvement With the State Parent Council, but Challenges With Parent Participation Remain

Education has made progress in addressing numerous issues with the state parent council. However, distrust between Education and some of the state parent council's members persists, and Education has not developed a process to ensure that the composition of this council complies with the two-thirds requirement in state law. As the Introduction discusses, state law requires that the migrant program include a state parent council that advises Education's state superintendent of public instruction on issues related to the migrant program. Two-thirds of the state parent council's members must be parents of eligible migrant children. The law also requires that this council meet at least six times a year and publish an annual report that details the state parent council's evaluation of the migrant program, the needs of migrant students, and policy recommendations.

Education Does Not Account Correctly for the State Parent Council's Membership

Although the state parent council complied with the two-thirds requirement in state law (as of fall 2012), Education does not adequately track the council's composition. As discussed in the Introduction, regional parent councils can elect up to two members to be representatives to the state parent council. As a result, although Education is not directly involved in establishing the composition of the council, state law requires Education to ensure that the council exists and requires two-thirds of the council membership to be made up of parents of migrant children. In two recent responses to OME, Education asserted that it ensures the council's compliance with this requirement. Therefore, we expected that Education would use some consistent process for documenting the membership status of each member of the council.

Eight of the 31 members in Education's membership directory had inaccurate designations. For example, some of the council members that Education had identified as migrant parents were actually community members.

In a September 2012 letter to OME, Education stated that it ensured compliance with the composition requirement by verifying the parents' eligibility through COEStar and calling regional offices. Education provided OME with a membership directory, which the migrant program director stated is the official record of who is a member of the council and whether he or she is a migrant parent or a community member. However, when we reviewed the directory Education provided, we found that eight of the 31 members had inaccurate designations. For example, some of the council members that Education had identified as migrant parents were actually community members. Also, we found council members identified as community members were actually migrant parents. Finally, the

spreadsheet that the migrant program office ostensibly used to track membership status of the state parent council had not been updated since January 2012.

Despite these deficiencies, the overall membership of the council was compliant with the two-thirds requirement as of fall 2012. However, without a process to ensure that it accurately tracks a member's status, the council's membership could fall below the two-thirds requirement without Education realizing such a change occurred. In fact, we reviewed the composition of the parent council at two other points in time and found that the council directory during December 2011 showed a membership composition that fell short of the two-thirds requirement. To help ensure that the council's membership reflects the makeup required by state law, the migrant program office should regularly verify the state parent council's composition and accurately reflect this status in its council directory.

The State Parent Council Has Not Regularly Produced Its Required Report

Although it completed the required annual report for 2011, the state parent council had not previously completed an annual report since 1991.

Although it completed the required annual report for 2011, the state parent council had not previously completed an annual report since 1991. State law establishes this report as a method for the state parent council to communicate to Education its evaluation of the migrant program and its policy recommendations. For almost 20 years, the state parent council did not comply with the annual reporting requirement in state law, and Education missed out on this valuable input from the council. Council members stated that before 2011, Education did not request the report or provide the training necessary for the council to complete such a report. According to the state parent council president, "As president, I wanted to understand the law [related to the report requirement] and I asked [the former administrator of migrant education]. He said the process is long and complicated and that [Education] would have to contract with an outside agency to assist. But, for many years this did not happen. I would ask Education for assistance to produce the report, but [it] did not help us or get an outside agency to assist us." A migrant program office staff member confirmed that the migrant program office did not enforce the requirement that the state parent council produce the annual report. According to this staff member, staff in the migrant program office were aware of the law that required the annual report, yet there was no effort to enforce the requirement.

Education is now more involved in the development of the annual report to ensure that the state parent council completes it as required. Specifically, it has structured the agendas for the council's meetings so that the preparation of the report is an item on the agenda, and so that parents receive the training necessary for its completion. For example, the agenda for the council meeting

in November 2012 was dedicated to developing the required report for 2012. According to the migrant program staff member assigned to the state parent council, Education has requested that the state parent council focus on completing its 2012 report, and the state parent council is working on improving the level of content provided in its previous report.

Education Now Takes an Active Role in Ensuring That the State Parent Council Complies With Open-Meeting Requirements, Though State Law May Need Clarification

Education's 2011 review of the state parent council's activities found that the council frequently violated open-meeting requirements by making changes to posted agendas, failing to follow the agenda during meetings, voting on items that did not appear on the agenda, and failing to make a record of its meetings. Since its review, Education has taken steps to ensure that the state parent council complies with open-meeting requirements that include participating in the development of meeting agendas, posting the agendas online, providing public access to the online webcast of meetings, and providing a record of past council meetings. However, Education told us that some of its efforts have met with resistance from some members of the state parent council.

One of these areas of resistance has involved Education's efforts to take a more active role in developing the agendas. According to a staff member from the migrant program office, before the council meetings, Education contacts the president and vice president of the state parent council to discuss the items that will be on the agenda for the upcoming meeting. The staff member stated that since this new process began, there have been cases in which either one or both of the state parent council officers did not respond to Education's request for a meeting. The state parent council president stated that problems and misunderstandings have occurred in the past between Education and the state parent council. She stated that she prefers not to have conference calls with Education. Instead, she indicated that she prefers written communication because it is more transparent.

The issue of who controls the agenda for the state parent council meetings became such a contentious issue that an OME representative stepped in to provide direction.

The issue of who controls the agenda for the state parent council meetings became such a contentious issue that a representative from OME stepped in to provide direction to the state parent council president. In that e-mail correspondence, the OME representative stated that, "While we would encourage [state agencies] to consult with parents about the agenda for [parent advisory council] meetings, the [state agency] has the ultimate authority and responsibility for ensuring that agenda items concern the planning, operation, and evaluation of the state

[migrant education program]." According to a staff member of the migrant program office, since this e-mail exchange, the state parent council now accepts Education's role as the entity responsible for setting the agenda.

In addition to taking responsibility for setting agenda items, Education has taken steps to ensure that the agendas are made available to the public online before the meeting, thereby providing sufficient public notice. According to the staff member assigned to the state parent council, Education has no formal policies regarding the posting of agendas online, but its informal goal is to post the agenda online at least 10 days in advance of the meeting. This staff member said that doing so would exceed the open-meeting requirement that the agenda be posted 72 hours before the meeting.

Our review of Education's Web site logs showed that for three recent meetings, each of the agendas was posted at least 72 hours in advance of the meeting. While this complies with the Greene Act, the Bagley-Keene Act generally requires a 10-day notification.

Our review of Education's Web site logs showed that for three recent meetings each of the agendas was posted at least 72 hours in advance of the meeting. This practice complies with one of the State's open meeting laws—the Greene Act—which Education believes applies to the state parent council.[18] However, our legal counsel has advised us that while a strict reading of the law suggests that the Greene Act applies, it is unclear whether the Legislature intended that the Greene Act apply to this statewide body. Our legal counsel further advised that it is reasonable to conclude that the state open meeting law that applies to the state parent council is the Bagley-Keene Act. Under the Bagley-Keene Act, all meetings held by a state body must be open and public, and notice of the meeting, including an agenda, must be made available on the Internet 10 days in advance of the meeting. Additionally, the Bagley-Keene Act generally requires that no items be added to the agenda subsequent to the 10-day notification.

The key difference between the Greene Act and the Bagley-Keene Act is the notice requirement: The Greene Act requires the agenda to be physically posted at least 72 hours prior to the meeting; in contrast, the Bagley-Keene Act requires the agenda to be posted at least 10 days prior to the meeting. In addition, the Bagley-Keene Act requires the agenda to be posted on the Internet and in formats accessible to persons with disabilities. If the Bagley-Keene Act is the applicable state law, Education failed to post one of the three recent meeting agendas in enough time to comply with the law. Education's general legal counsel told us that it is Education's position that the Greene Act applies to the meetings of the state parent council. We found that Education is making a good faith effort to comply with the open-meeting requirements under the Greene Act. Because of the ambiguity as to which open meeting law applies to the

[18] Enacted in 1994, the Greene Act relieves certain local educational bodies from the requirements of the Bagley-Keene Act and the Ralph M. Brown Act. Instead, the Greene Act imposes alternative open-meeting requirements for these local bodies.

state parent council, we believe clarification of the law would likely benefit Education as it continues to strive to meet the appropriate requirements.

Finally, Education has provided greater public access by live-streaming the state parent council meetings and making the recordings of the meetings available online. Since October 2011 Education has been live-streaming council meetings and providing links to the archived videos of past council meetings on its Web site. In a July 2012 letter, OME acknowledged that the live-streaming of council meetings is a positive step toward addressing some past areas of concern related to the council.

State Parent Council Members Report on State Activity to the Regional Parent Councils

State law requires that members of the state parent council be elected by parents of migrant children enrolled within the state's regions. Our review determined that these elected state representatives report back to their respective regional parent councils about the activities at the state level. The meeting minutes and agendas from the regional parent councils in the regions we visited showed that state parent council members are a regular feature on the regional agendas, and these members are given time to discuss state-level issues with their regional peers. We observed various reporting activities, including some state parent council members providing written reports of the activities occurring at the state level to their regional parent councils, while other members appeared only to provide oral reports on such activities.

Recommendations

To determine if the statewide migrant education program is effective, Education should finalize its current evaluation of the program and begin developing the capacity to produce a more robust annual evaluation of the program.

To address a lack of detailed migrant program service and outcome data, Education should either expand the capabilities of its existing statewide databases or implement additional systems that would allow regions to capture more detailed data about migrant students.

To ensure that it receives satisfactory services and outcomes for the funds spent on statewide contracts for the migrant program, Education should develop and execute a plan to monitor each of its contracts and cancel any it determines do not provide adequate or cost-effective services.

To ensure that the state parent council complies with the requirement that two-thirds of its membership consist of parents of migrant children, Education should accurately and continually update its member directory and inform the regional parent councils regularly about the current composition of the state parent council.

To ensure that it receives a report from the state parent council, Education should continue to provide the necessary training to the council regarding the report and ensure that the council report appears on the agenda for state parent council meetings.

To help the state parent council meet the State's open-meeting requirements, the Legislature should consider whether it needs to clarify its intent as to which open-meeting law applies to the state parent council.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
State Auditor

Date: February 28, 2013

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

Appendix A

METHODS USED IN SELECTING MIGRANT EDUCATION PROGRAM REGIONS FOR REVIEW

The Legislature directed that the California State Auditor review the fiscal practices of a sample of migrant education program (migrant program) regions. The Legislature directed that the regions selected be sufficient in number to reflect the diversity of local regions and program structures. As the Introduction discusses, the migrant program has 23 regions—14 county offices of education, which serve as regional offices, and nine school districts directly funded by the California Department of Education (Education). These regions and districts are shown in Figure A on the following page.

After examining the information provided in Table A on page 59, we selected eight regions for review—five regional offices and three directly funded school districts. The factors we considered in making our selections were geographic location, the amount of funds allocated to the respective regions, the regional count of migrant children eligible for the program, Education's reported error rates in regions' eligibility determinations based upon reinterviews with migrant students, and the regional administrative costs calculated by Education. The information presented in Table A was the most current data available as of the summer of 2012, when we made our selections of regions to review. We obtained the information from Education and could not test its reliability before we selected the eight regions. As Chapter 1 explains, we have since determined—based on our work at the regions—that Education's calculation of administrative costs was flawed and cannot be adequately relied upon.

Figure A
Map of Migrant Education Program Regions

Source: California Department of Education (Education).

Note: Numbers shown on this map correspond to the numbers Education assigned to each region and can be found in Table A in the *Region Number* column. Colors on the map show regional boundaries, and the region number is placed in the county where the regional office is located.

Table A
Data on Migrant Education Program Regions

PROGRAM REGION	REGION NUMBER*	LOCATION	ALLOCATION FOR FISCAL YEAR 2011–12	PROJECTED MIGRANT STUDENT COUNT FOR FISCAL YEAR 2012–13	ELIGIBILITY ERROR RATE FOR FISCAL YEAR 2009–10	ADMINISTRATIVE COST PERCENTAGE (AVERAGE OF FISCAL YEARS 2008–09 AND 2009–10)
Regional Offices						
Fresno County Office of Education†	4	Central Valley	$12,505,357	15,174	36%	20%
Butte County Office of Education†	2	Northern California	12,019,582	14,844	4	20
Monterey County Office of Education†	16	Central Coast	10,471,352	13,729	4	32
Tulare County Office of Education	8	Central Valley	9,868,071	12,955	10	39
San Joaquin County Office of Education†	23	Northern California	9,209,596	10,383	11	37
Santa Clara County Office of Education	1	Bay Area	8,098,015	11,751	4	38
Los Angeles County Office of Education†	10	Southern Coast	7,207,640	12,041	4	38
Kern County Office of Education	5	Central Valley	6,565,071	8,735	11	32
Merced County Office of Education	3	Central Valley	6,426,832	9,700	10	27
San Diego County Office of Education	9	Southern Coast	6,303,130	9,234	2	22
Imperial County Office of Education	6	Southern Inland	5,409,237	7,824	4	21
Ventura County Office of Education	17	Southern Coast	4,421,249	5,300	6	35
Riverside County Office of Education	7	Southern Inland	2,515,254	4,025	0	20
Santa Barbara County Education Office	18	Central Coast	2,026,028	2,924	0	37
Totals			**$103,046,414**	**138,619**		
Directly Funded School Districts						
Pajaro Valley Unified School District†	11	Bay Area	$3,930,468	5,121	2%	35%
Santa Maria-Bonita School District	22	Central Coast	2,473,638	2,861	0	21
Bakersfield City School District†	21	Central Valley	2,349,063	3,882	8	28
Delano Joint Union High School District†	14	Central Valley	1,432,414	2,196	8	22
Lindsay Unified School District	24	Central Valley	1,230,815	1,703	0	36
Lost Hills Union School District	19	Central Valley	838,439	958	0	12
San Jose Unified School District	13	Bay Area	707,877	828	50	31
Oxnard Elementary School District	12	Southern Coast	375,153	792	19	22
Semitropic School District	20	Central Valley	108,740	180	0	26
Totals			**$13,446,607**	**18,521**		

Sources: California Department of Education, migrant education program office's Web site, regional reinterview report, grant allocation projection spreadsheet, and administrative cost calculations.

* These numbers correspond to the region numbers on the map in Figure A.

† We selected this region for on-site review.

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Appendix B

SUMMARY OF THE CALIFORNIA DEPARTMENT OF EDUCATION'S RESPONSES TO THE RECOMMENDATIONS FROM RECENT FEDERAL REVIEWS

The Legislature directed the California State Auditor (state auditor) to review the extent to which the California Department of Education (Education) has addressed any relevant findings raised since 2006 in federal reviews of the State's migrant education program (migrant program). In addition, the Legislature directed that for findings that Education had not adequately addressed, the state auditor should recommend how to address the findings to ensure that the services in the migrant program are efficient and effective. The results of our review appear in Table B beginning on page 62, where we present the federal findings according to the most recent grant condition and program determination letters sent by the federal Office of Migrant Education and the federal Office of Elementary and Secondary Education, respectively.

Table B
Analysis of the California Department of Education's Progress in Addressing Findings in Recent Federal Reviews of the Migrant Education Program

NUMBER	SUBJECT	OUTSTANDING FEDERAL FINDING(S)	REQUIRED ACTION	STATUS	STATE AUDITOR'S RECOMMENDATION
1	State Parent Advisory Council	The California Department of Education (Education) has not resolved federal concerns about its obligation to ensure the following: (1) Two-thirds of the state parent advisory council (state parent council) for the migrant education program (migrant program) consists of parents of migrant children. (2) The state parent council consists of members nominated by parents of enrolled migrant children. (3) The state parent council does not convene special meetings or meet unofficially. (4) Officers and other members of the state parent council do not intimidate or harass other members. (5) Officers of the state parent council comply with agenda requirements. (6) The terms of the state parent council's executive officers are limited.	Education is required to report regularly to the federal Office of Migrant Education (OME) regarding its efforts to address these issues and to implement corrective actions. OME will remove the grant condition when Education establishes that it has implemented all appropriate corrective actions.*	Education has outlined a four-phase plan to implement corrective actions. Some of these actions, such as the regular posting of agendas online, have already been implemented. Others, such as the adoption of regulations to limit executive officer terms, are still pending. Education reported that it expects to have these regulations in effect by February 2014.	Education should continue to follow its established plan to address issues related to the state parent council and to provide regular updates to OME as required.
2	Regional Fiscal Review	Education has not resolved federal concerns about the following complaints: (1) Many of the regional offices and districts are overstaffed and overcompensated for the functions they perform. (2) Administrative positions overlap at the various levels of service delivery. (3) The migrant program subgrantees use migrant program funding to subsidize their general operations, to support other programs, or simply to keep school officials employed. (4) Some regional offices maintain fleets of vehicles, while others pay certificated teachers in excess of $1 million annually to provide noninstructional services.	Education is required to submit a signed certification by the state superintendent of public instruction (state superintendent) that all expenses approved in the 2012–13 regional applications are both necessary and reasonable. No later than March 15, 2013, Education is required to provide a complete and accurate report on the administrative costs of its subgrantees. OME will remove the grant condition when Education establishes that it has implemented all appropriate corrective actions.*	Education has not provided the signed certification. According to Education, it has not done so because of an extended delay in the regional application approvals. Education has not yet provided a plan for completing the administrative cost report. We discuss Education's most recent response to OME regarding administrative costs in Chapter 1 of the audit report.	Education should complete the work necessary to provide the signed certification from the state superintendent. Our recommendation in Chapter 1 addresses Education's approach to calculating administrative costs.

NUMBER	SUBJECT	OUTSTANDING FEDERAL FINDING(S)	REQUIRED ACTION	STATUS	STATE AUDITOR'S RECOMMENDATION
3	Eligibility Reinterviews	Education has not resolved federal concerns regarding high discrepancy rates for migrant child eligibility in areas served by its regional offices. Related to corrective actions required under the January 2009 program determination letter and the Office of the Inspector General's 2006 migrant child eligibility audit, Education was to submit a corrective action plan to address the high discrepancy rates identified in its 2009–10 prospective reinterview report. Education submitted this plan in July 2012. Education was also required to submit its final prospective reinterview report for fiscal year 2011–12 by October 15, 2012.	Education is required to report regularly to OME regarding its efforts to address these issues and to implement corrective actions. OME will remove the grant condition when Education establishes that it has implemented all appropriate corrective actions.*	On October 15, 2012, Education submitted to OME a preliminary report from its contractor on the results of reinterviewing in 2011–12, stating that the final report was delayed one month. The final report was submitted to Education in December 2012. Education then submitted its latest scheduled corrective action update on January 15, 2013.	Education should continue corrective actions to lower the statewide discrepancy rate. Additionally, it should continue to update OME as required.
4	Migrant Staff Conduct	Over the past two years, Education has continually failed to submit its report to OME summarizing findings of its internal investigations of allegations of improper conduct made against state and regional staff for the migrant program.	Education was required to submit a final report regarding its investigation of the complaints against state and regional migrant program staff by August 15, 2012.*	Education responded to OME on both June 25, 2012, and September 4, 2012. An OME representative stated that this grant condition has since been elevated and is being addressed by senior officials in both the U.S. Department of Education and the California Department of Education.	Education should wait for further requests for information from OME and respond accordingly.
5	Subgrant Process	Education has not yet addressed federal concerns about how it monitors its contractors' work in the subgrant allocation process. Specifically, it has not done the following: (1) Explained how a comparison of regional data and contractor reports ensures the accuracy of data used in its subgrant allocation formula. (2) Explained whether the regional and contractor reports are generated independently or if they are based on the same underlying data. (3) With regard to its statement that it "compares subgrant reports with data from other reports provided by each region," indicated what these "other reports" are or what data are cross-checked. (4) Explained how it verifies the "completeness and accuracy" of data samples from regional submissions.	Education was required to submit a copy of its written procedures for reviewing and approving work performed by its contractor with respect to the factors Education uses in its migrant program subgrant allocation process and to document that it has carried out these procedures.	Education reported that it is undertaking an internal review of the migrant program that will result in updated policies and procedures in this and other areas. However, Education has not finalized these policies and procedures. In the meantime, Education has reported to the federal Office of Elementary and Secondary Education (OESE) in an attempt to respond to some of its concerns.	Education should complete its internal review and provide policies and procedures regarding the review and approval of contractor work to OESE.

continued on next page . . .

NUMBER	SUBJECT	OUTSTANDING FEDERAL FINDING(S)	REQUIRED ACTION	STATUS	STATE AUDITOR'S RECOMMENDATION
6	Federal Reporting	Education's failure to review, approve, and document the accuracy of the data reported by its contractors in the State's Consolidated State Performance Report (performance report) has resulted in inaccuracies going undetected. Education has reported data to the federal government that is inaccurate and misleading due to the longstanding "mismatches" among the State's migrant and statewide student databases. Education submitted an informal description of a proposed solution to this problem that OESE determined was incomplete.	Education was required to submit a written statement from the migrant program director that explains the scope of the problems and that addresses the federal concerns, including a plan to implement corrective actions.	Education and OME have been in communication regarding this issue. Education's data systems contractors are implementing a new matching process to identify migrant children with their performance data. Education's most recent report states that a high percentage of students have been matched in the databases, and it outlined a plan to continue its efforts.	Education should continue to proceed with its stated corrective action plan and continue to update OME and OESE as required. We further discuss Education's efforts regarding this federal concern in Chapter 2.
7	Special Tests and Provisions	Education did not follow the quality control procedure it outlined in the performance report for verifying certificates of eligibility. According to OESE, this omission violates regulatory requirements to report accurate information.	Education was required to submit written assurance that the migrant program director will review Education's statements in the performance report about its quality control processes and will ensure that these statements are accurate before it submits the performance report to the U.S. Department of Education.	The program director for the migrant program provided written assurance that she or her designee will review the statements in the performance report before submission.	Education appears to have provided the required statement. No recommendation is necessary.
8	Subrecipient Monitoring	Education has set aside a portion of its migrant program grant to fund a program for migratory preschool children and their parents. Education used the name Migrant Education Even Start for this program, which OESE determined allowed this state program to be confused with the federal program of the same name. OESE stated that the use of the name could cause recipients to follow the wrong statutory and regulatory requirements. Further, Education did not indicate on its migrant program grant award notifications which statutes and regulations apply to the award.	Education was required to submit evidence that it implemented corrective actions on these issues.	Education has since changed the name of the program and states that it notified the applicable regional directors. In addition, Education's grant award notifications now include all applicable requirements of the migrant program.	Education appears to have provided the required statement. No recommendation is necessary.

Source: California State Auditor's review of federal findings on the migrant program since 2006.

* This required action is the result of Education's 2012 grant conditions.

(Agency comments provided as text only)

California Department of Education
1430 N Street
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February 11, 2013

Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

Subject: Response to the Draft Report titled, "*Department of Education: Despite Some Improvements, Oversight of the Migrant Education Program Remains Inadequate*," Report No. 2012-044

The California Department of Education (Education) appreciates the opportunity to provide written comments and proposed corrective actions to the recommendations outlined in the Bureau of State Audits' (BSA) Audit Report No. 2012-044, received on February 5, 2013.

Education strives to continuously improve the operations of the Department and has implemented the following corrective actions to address the BSA's recommendations:

CHAPTER 1

Recommendation No. 1

To ensure that it minimizes the potential for disagreement over allowable program costs, Education should better define the criteria by which it will consider migrant program costs allowable and include that criteria in the fiscal handbook it provides to the regions.

CDE Comments and Corrective Actions

Education concurs with this recommendation. The Department is in the process of developing more specific criteria by which to determine whether specified migrant program expenditures by regions and contractors are allowable. The process will clarify the rules for the most common areas of confusion: the use of migrant funds for food, vehicles and promotional items. Education is also finalizing the criteria by which it will determine whether expenditures supplement or supplant the core instructional program. These criteria will be released in time to inform the development of regional applications for 2013-14, and they will be included in the forthcoming update of the Migrant Education Fiscal Handbook.

Recommendation No. 2

To demonstrate its willingness to fairly evaluate regional expenditures, Education should allow San Joaquin to reimburse its general fund for the vehicle purchase Education incorrectly disallowed.

* California State Auditor's comments begin on page 75.

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CDE Comments and Corrective Actions

Education does not concur with this recommendation nor with BSA's analysis regarding Education's review of San Joaquin County Office of Education's migrant expenditures. Specifically, the audit division: (1) did not "shift" its review focus to further disallow the vehicle in question; (2) informed San Joaquin about the specific concerns of the mileage logs; and (3) did not set an "excessively high standard" in assessing San Joaquin's mileage logs.

Education's audit division conducted an independent and unbiased review of San Joaquin with the objective of determining whether costs charged to the migrant program are reasonable, necessary, and properly supported in accordance with applicable federal requirements. Education did not
(1) "shift" its focus in reviewing San Joaquin's vehicle purchase. After determining that the vehicle was approved, it was necessary for the audit division to determine whether San Joaquin could provide adequate documentation to substantiate the vehicle was used solely for the benefit of the migrant program. In this regard, Education disallowed a significant portion of the vehicle cost due to
(2) incomplete, or lack of, information contained in the mileage logs; Education allowed mileage for those trips on the logs that clearly documented that the trips were specific to the migrant program.

(3) Contrary to what the BSA states, on July 24, 2012, Education informed San Joaquin in writing of its concerns with the mileage logs. Specifically, Education communicated that "the mileage logs provided by the LEA did not provide enough detail to ensure that the travel was solely for the benefit of migrant
(4) children or the migrant program." On July 26, 2012, San Joaquin thanked the audit division for its assistance and stated that it would reimburse the program that day.

Education does not concur that it set an "excessively high standard" in assessing San Joaquin's migrant program expenditures. Education requires all local educational agencies to support vehicle purchases with complete mileage logs that specify: (1) driver; (2) date of trip; (3) mileage of trip; (4) trip departure and return odometer readings; (5) specific destination for the vehicle; and (6) descriptive
(5) purpose for the trip. Although migrant program staff may have utilized the vehicle, Education did not assume, as the BSA did, that the vehicle was used solely to benefit the migrant program. Furthermore, the BSA considered the "numerical codes" on the mileage logs as descriptive purposes for the trip.
(6) However, according to the documentation provided by San Joaquin staff, the "numerical codes" were simply accounting codes used to classify expenditures – not codes that "described the purpose of each trip" as the BSA auditors incorrectly reported.

That said, Education will reiterate the desired components of vehicle mileage logs when it updates the Migrant Education Fiscal Handbook.

Recommendation No. 3

To improve its understanding of regional expenditures, Education should increase the level of detail required in its quarterly expenditure reports. The level of detail should allow Education to select expenditures for review.

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CDE Comments and Corrective Actions

Education concurs with this recommendation. In her testimony before the State Legislature in May 2012, the Deputy Superintendent identified the lack of information about regional expenditures as one of the primary reasons the Department was requesting an audit of this program. The Department is working with fiscal experts to evaluate and redesign the quarterly expenditure reports to increase the level of detail.

Recommendation No. 4

For regions that have not recently received a federal monitoring review, Education should use the detailed expenditure reports to select a sample of expenditures, request supporting documentation from the regions, and then review the expenditures to determine if they meet applicable federal and state criteria.

CDE Comments and Corrective Actions

Education appreciates this recommendation and will explore this along with other options to enhance its ability to ensure that regional expenditures comply with applicable state and federal criteria.

Recommendation No. 5

As part of the reviews based on quarterly reports, Education should verify that regions are using the appropriate accounting codes to classify their expenditures.

CDE Comments and Corrective Actions

Education concurs with this recommendation and will ensure that its reviews of quarterly reports include verification that regions are using the appropriate accounting codes.

Recommendation No. 6

To guard against future conflicts of interest, San Joaquin should complete its evaluation and revision of its procurement policies and procedures, update its conflict-of-interest code, and ensure that all its managers receive conflict-of-interest training.

Education should follow up with San Joaquin to ensure that it takes the actions we recommend.

CDE Comments and Corrective Actions

Education appreciates this recommendation and will request that San Joaquin verify it has complied.

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Recommendation No. 7

To address problems with its methodology for calculating administrative costs, Education should do the following:

- Review the regions' current use of accounting codes to identify the areas in which regions differ in accounting for similar migrant program costs.
- Provide regions with more specific direction about how to charge these expenses.
- Revise which accounting codes it will consider administrative in light of its review of regional coding.

CDE Comments and Corrective Actions

Education concurs with this recommendation. The Department compiled regional administrative expenditures in accordance with the methodology requested by the federal Office of Migrant Education (OME).

Education is working in conjunction with experts on fiscal administration to determine which Standardized Account Code Structure (SACS) codes will be considered administrative and which will be considered direct services. The new allocation of codes will be incorporated into the forthcoming Migrant Education Fiscal Handbook, where regional directors can reference the information as they develop their programs and budgets.

Recommendation No. 8

Once it has addressed the underlying issues with regional accounting, provided direction to regions about which expenditures it will consider administrative, and obtained accurate expenditure data, Education should review its administrative cost goal to ensure that this goal is reasonable given the requirements of the migrant program.

CDE Comments and Corrective Actions

Education concurs with this recommendation. The Department will review the reasonableness of its goal to decrease administrative costs and maximize resources for direct services to migrant students.

Recommendation No. 9

To address past federal findings that are not yet resolved, Education should respond as recommended in Appendix B of this report.

CDE Comments and Corrective Actions

Education concurs with this recommendation and will continue to implement its corrective action plans in accordance with the federal OME.

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Chapter 2

Recommendation No. 1

To determine if the statewide migrant education program is effective, Education should finalize its current evaluation of the program and begin developing the capacity to produce a more robust annual evaluation of the program.

CDE Comments and Corrective Actions

Education appreciates this recommendation but would like to note that the determination of whether the migrant education program is effective is in part three of the scope of the audit. Given that the BSA did not provide the information anticipated by Education, the Department will complete this task. 7

The estimated completion date for its evaluation of the statewide delivery of migrant education services is October 31, 2013. This information, together with the new regional applications and district service agreements currently under development, and the next statewide Comprehensive Needs Assessment, will inform the development of a more robust annual evaluation.

Recommendation No. 2

To address a lack of detailed migrant program service and outcome data, Education should either expand the capabilities of its existing statewide databases or implement additional systems that would allow regions to capture more detailed data about migrant students.

CDE Comments and Corrective Actions

Education concurs that it needs to collect more detailed migrant program service and outcome data. This was the purpose of its revised and expanded 2012-13 district service agreements and regional agreements. It is also the goal of the revised regional evaluation and needs assessment implemented this year. The Department is again redesigning its district service agreements and regional agreements to ensure that these capture the necessary service and outcome data while addressing the needs of regional and LEA staff for a more user friendly document.

It is important to note that before the Department can accurately collect and analyze program services and outcome data, it must be able to identify and measure those services and verify that they are being delivered. The preconditions for assessment of program outcomes must be in place before attempting to implement the recommendation.

Education agrees that the migrant regional offices must do a better job notifying local educational agencies about the students participating in the migrant program, obtaining the CALPADS statewide student identifier (SSID) for these students, and submitting the SSIDs to MSIN as required. The Department will communicate this during training session for regional staff involved in the identification and recruitment of migrant students. 8

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Education will explore the enhancement of the Migrant Student Information Network to complement the efforts described above. The Department will also evaluate additional processes, such as a secure Web service, to aid in the correct identification of migrant students. Education will continue to conduct a match of MSIN and CALPADS data to obtain the SSIDs required to identify migrant students receiving statewide assessments, and more accurately fulfill the migrant education federal reporting requirements in the Consolidated State Performance Report.

Given existing problems associated with using multiple local and statewide databases to meet the needs of the Migrant Education Program, it is unlikely that Education would introduce additional systems.

Recommendation No. 3

To ensure that it receives satisfactory migrant program services and outcomes for the funds spent on statewide contracts, Education should develop and execute a plan to monitor each of its contracts and cancel any contracts it determines do not provide adequate or cost-effective migrant program services.

CDE Comments and Corrective Actions

9 Education concurs with this recommendation and has already begun to implement it. To be clear, Education does have a plan to monitor contracts. It administers Migrant Education Program contracts in accordance with Department-wide policies and procedures.

In June 2012, the Migrant Education Intervention Team began reviewing all statewide contracts and has been advising the Department to ensure that Migrant Education Program contracts are efficient, transparent, necessary for the delivery of services to migrant students, and allow the department to hold contractors accountable. To date, one contract has been put out to bid and others are being re-written. The Intervention Team will also evaluate and make recommendations regarding the State Parent Advisory Council (SPAC), professional development for program and regional staff, collection of fiscal and student data, and the migrant education service delivery system.

Recommendation No. 4

To ensure that the state parent council complies with the requirements that two-thirds of its membership consist of parents of migrant children, Education should accurately and continually update its member directory and inform regional parent councils regularly about the current composition of the state parent council.

CDE Comments and Corrective Actions

Education concurs with this recommendation. The Department requires regional directors to notify the two staff members assigned to the SPAC when their regional parent advisory committee elects a new migrant parent to the SPAC. Directors must send the new member's certificate of eligibility to the Department to verify their eligibility. The Department also verifies that the composition of the

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SPAC complies with the statutory requirement that at least two thirds of its members are parents of migrant children.

Going forward, Education will verify the membership, eligibility and compliance of the SPAC three times per year: in April, August, and December. The Department is also designing a mechanism to document the results of this process.

It should be noted that the California Education Code does not allow Education to select members of the SPAC. As a result, when the SPAC falls out of compliance with the two thirds requirement, Education's only option is to inform the regional parent advisory councils in the hope that some of them will voluntarily replace their SPAC representatives with migrant parents. The Department is currently developing regulations that among other things, will address the two thirds requirement by preventing the SPAC from falling out of compliance in the future.

Recommendation No. 5

To ensure that it receives a report from the state parent council, Education should continue to provide the necessary training to the council regarding the report and ensure that the council report appears on the agenda for state parent council meetings.

CDE Comments and Corrective Actions

Education concurs with this recommendation. SPAC members will begin to write their 2012-13 report during their March 14th meeting and will finalize it during their May 4th meeting. The report will include recommendations made by the SPAC, and the results of the survey distributed to migrant parents at the statewide conference.

Education would like to address the inaccurate quote included in the report alleging that the Department refused to provide the necessary training to the SPAC regarding its annual report. In actuality, the SPAC refused to participate in the training provided to help produce the report. For example, in September 2010, Education provided a facilitator to assist the SPAC in writing this report, but the SPAC refused to cooperate with the training. In spite of the SPAC's resistance, Education was able to help the council to produce annual reports for 2011 and 2012. (10) (11)

In addition, BSA references a program staff member who stated that that the Department was aware of the requirement to support the SPAC in producing an annual report but made no effort to enforce it. This particular staff member may have been unaware of previous attempts to get the SPAC to produce its report. As the BSA notes, high staff turnover has resulted in a loss of institutional memory.

Education continues to work with the SPAC to focus on their role of advising the Department regarding education services for migrant students. The past year, Education also began to develop SPAC agendas with input from council leadership, eliminated stipends for SPAC members in accordance with federal guidance, decreased the costs of annual parent conference by 25 percent, and reduced attendance at the statewide parent conference by 100 while prioritizing parent attendance (as opposed to presenters or staff).

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Recommendation No. 6

(12) To help the state parent council meet the State's open meeting requirements, Education should seek legislative clarification on which open meeting law applies to the state parent council.

CDE Comments and Corrective Actions

Education disagrees that it is unclear which open meeting act requirements apply to the SPAC and do not believe that legislative clarification is needed. Education Code section 35147, known as the Greene Act, clearly states in subdivision (a) that "any meeting of the councils or committees specified in subdivision (b) is exempt from the provisions of this article" (pertaining to District Governing Board Meetings), the Bagley-Keene Open Meeting Act, and the Brown Act. Subdivision (b) specifies by statutory reference which councils and school site advisory committees are exempt from one of the three open-meeting act provisions. Education Code section 54444.2, the statute which requires the establishment of the SPAC, is specifically enumerated in subdivision (b). Subdivision (c) then articulates the open meeting act requirements for those councils or committees enumerated in subdivision (b).

(13) The statutory language is clear that Bagley-Keene does not apply to SPAC meetings. Education also disagrees with any implication that it has not complied with the Greene Act or that it was required to comply with Bagley-Keene. As discussed with BSA, the reference to the Bagley-Keene act by a prior staff attorney was in error, for a very short time, and did not change Education's practice with regard to compliance with the Greene Act.

Although Education is not disputing the application of the Greene Act to the SPAC, the Department will implement any open meeting requirement the Legislature may wish to apply in the future.

OVERALL COMMENTS

While Education appreciates the work of the BSA, the Department had expected the report to contain a comprehensive assessment of the work being done by the migrant program. Per AB 1497, item three in the scope of the audit requires the BSA to conduct

> "a detailed review of how effectively the state organizes and implements migrant education services at both the state and local levels, which includes alignment between program goals and program activities, outcomes from state-level contracts, effectiveness of data collection structures and internal operations, and the efficacy of the existing regional service delivery structure."

(14) Education disagrees with the BSA's narrow interpretation of this part of the scope of work and does not believe it complies with the intent of the Legislature in authorizing this audit.

(15) Per the testimony of the deputy superintendent before the State Legislature on May 8, 2012, Education was aware of many of the problems noted in this report. Indeed, the purpose of Education's request for an audit was for an impartial, outside entity to develop solutions to those problems.

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The report highlights some important challenges but its characterization of these problems lacks context. For example, Education's difficult working relationship with the SPAC is a direct result of the Department's insistence that the SPAC complete its statutorily required duty to produce an annual report, and of the measures the Department has taken to reduce the cost of the statewide parent conference. Education's decision to reduce the cost of this conference by 25 percent since last year was vehemently opposed by the SPAC. Education repeatedly advised BSA staff to attend SPAC meetings, watch meetings via live stream or watch video recordings of these meetings. Had they done so, they could have produced a more accurate depiction of this working relationship and perhaps developed recommendations to help Education make better use of this valuable resource—migrant parents—in the future. (16)

Similarly, Education repeatedly advised BSA staff to attend meetings of the Migrant Regional Directors Council, many of which take place in Sacramento. Since BSA never observed the interaction between Education and the regional directors, its depiction of that working relationship also lacks context. (17)

Education is disappointed that large portions of this report are dedicated to citing problems without recommending corresponding solutions. For example, the report makes no recommendations regarding how to decrease staff turnover, or improve the working relationship with the SPAC and regional directors. (18)

In addition, Education would like to make the following corrections and clarifications:

1. In seeking historical information regarding the migrant program or the relationship and interaction with the SPAC, BSA did not speak to the former deputy superintendent who had the responsibility of overseeing the migrant education unit and only spoke in a limited manner with the former division director that oversaw the program.

2. Migrant regions typically use the student information system used by the district or county office of education of which they are a part. Education cannot dictate to LEA's which system to use. Requiring migrant regions to use a system different than what their LEA uses would likely create more problems with student data, not fewer.

3. Regarding the Nexus system, the existing program leadership has no knowledge of invitations to visit Pájaro Valley to learn about this system. More importantly, the federal OME holds Education responsible for ensuring that expenditures by the regions are necessary for the delivery of migrant education services. As such, Education requires regions to provide the information necessary to make that determination. Per BSA's recommendation number 3 in Chapter 1 of this report, Education must ensure that it collects sufficient information about regional expenditures in order to provide proper oversight. Education does not consider invitations to visit Pájaro Valley to be a proper substitute for the information required by the regional application and the program's fiscal reporting practices.

Education is committed to improving and expanding service to migrant students in California. In recent years, it has taken many steps to strengthen the operations of its program office and its oversight of migrant regions. In October 2011, it reorganized its operations to increase Migrant Education Office as a priority within the division. In 2012, Education requested this audit and created the Migrant Education Intervention Team. The latter is scheduled to complete its work in December 2013. We look forward to implementing the

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recommendations in the BSA report and those of the Intervention Team as we work to improve educational outcomes for migrant students.

If you have any questions regarding Education's corrective actions, please contact Karen Cadiero-Kaplan, Director, English Learner Support Division, by phone at (916) 319-0937, or by e-mail at KCadieroKaplan@cde.ca.gov.

Sincerely,

(Signed by: Richard Zeiger)

Richard Zeiger
Chief Deputy Superintendent of Public Instruction

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA DEPARTMENT OF EDUCATION

To provide clarity and perspective, we are commenting on the California Department of Education's (Education) response to our audit. The numbers below correspond to the numbers we have placed in the margin of Education's response.

Education incorrectly asserts that it did not shift the focus of its review of the vehicle purchase by the San Joaquin County Office of Education (San Joaquin). Education's records show that in early June 2012, Education submitted a written determination stating that the vehicle purchase was not allowed because San Joaquin had not obtained federal agency approval for the vehicle purchase. At the end of July 2012 (after Education's reviewers apparently realized that federal agency approval for individual purchases is not required or practical), Education's reviewers then considered whether the mileage logs San Joaquin provided demonstrated that the vehicle was used solely to support the migrant program. This review did not take place until after Education's reviewers had taken the position that the vehicle purchase was not allowed. (1)

Education's statement that it allowed a portion of the vehicle's mileage is lacking some crucial details. Education's auditors determined that 0.42 percent of the total miles in the logs were allowed. As a result, Education allowed just $148.88 of the total vehicle purchase price. We found no support for this calculation in the federal program monitoring review documents or in the logs themselves. We asked Education's auditors about this percentage and received no answer. (2)

As we indicate on page 15, Education failed to explain to San Joaquin the specific concerns about the mileage logs. San Joaquin's deputy superintendent confirmed that his office received no communication from Education regarding the need for the logs to contain more specific information about destinations or the purpose of the trip. Not surprisingly, we observed that San Joaquin has not modified its mileage logs since Education completed its review. (3)

We note that San Joaquin did not agree with Education's determination about the vehicle purchase and provided documentation throughout the review to support that it had received approval for the purchase and that it was using the vehicle in support of the federally funded migrant education (4)

program (migrant program). San Joaquin's deputy superintendent stated in December 2012 that he believes that the county should have been allowed to use migrant funds to purchase this vehicle.

5 We did not make any assumptions; we analyzed the evidence. In our view, the logs provide *reasonable* assurance that the vehicle was used solely to support the migrant program. Additionally, the logs contain all of the elements described by Education: a driver name, the date of the trip, total mileage of the trip, departure and return odometer readings, a specific destination for the trip, and a numerical code that describes the purpose of the trip. If Education wanted to see something more specific in the mileage logs, it should provide that guidance to local educational agencies prior to disallowing purchases.

6 Although Education appears to be dismissive of the detail provided by the accounting codes on the mileage logs, the codes also describe the reason why a driver used the vehicle. For example, one commonly used code represented costs related to "Identification and Recruitment", which is an activity required by the migrant program. Staff also used codes to indicate when their travel was related to the migrant program's out of school youth component. In all of the cases we observed, the codes found in the logs were specific to the migrant program. If Education desires something more specific than categories such as "Identification and Recruitment", then it should clearly communicate the specificity it desires in advance of disallowing purchases.

7 Education misunderstands the recommendation we made and incorrectly states the scope of the audit. We recommend that Education conduct an evaluation of the migrant program as is required by federal regulation. As we explain on page 42, the federal regulation requires Education to determine if the program is effective by measuring itself against the goals it defined in its migrant education statewide plan. As we note on that same page, Education has not yet completed such an evaluation and therefore we recommend that it do so. Further, our assigned audit scope does not direct us to complete this evaluation for Education and it would be inappropriate for us to do so. As we state on page 10, we were directed to review how effectively the State organizes and implements migrant education services at both the state and local levels, which includes alignment between program goals and program activities, outcomes from state-level contracts, effectiveness of data collection structures and internal operations, and the efficacy of the existing regional service delivery structure.

8 Contrary to what Education implies on page 69 in its response to our report, we did not discuss or recommend that migrant regional offices must do a better job notifying local educational

agencies about the students participating in the migrant program, obtaining the California Longitudinal Pupil Achievement Data System Statewide Student Identifier (SSID) for these students, and submitting the SSIDs to the Migrant Student Information Network.

We describe Education's contract-monitoring practices related to migrant program contracts on page 48, where we discuss Education's use of a standard form to review the work of a contractor. However, we also state on page 48 that this practice is, on its own, insufficient to determine if the migrant program's contracts that provide services to migrant students are efficient or effective. Therefore, our recommendation to Education is that it develop a plan to monitor these contracts in a way that allows it to make such determinations. By assigning this task to an external team of reviewers as it states on page 49 and in its response, Education acknowledges that it has not previously made such determinations. (9)

We accurately quote the state parent advisory council (state parent council) president's statement to us on page 52. It therefore appears that Education disagrees with the assertions made by the state parent council president. However, as we note on that same page, we spoke with other state parent council representatives who made similar statements about Education's lack of training regarding the annual report. (10)

Education does not acknowledge its own shortcomings with regard to the state parent council's annual report. Although Education claims it attempted to provide training to the state parent council in 2010, as we note on page 52, the council failed to produce its required report for almost 20 years. Education conducted an investigation in 2011 to determine why certain problems with the state parent council persisted. Education's own investigation, which was then verified by an independent reviewer, determined that Education bore some of the blame for the state parent council's failure to produce the annual report. Specifically, the investigation concluded that Education enabled the state parent council's drift from its mission, failed to establish a process by which the state parent council could submit recommendations on the migrant program, and it failed to provide consistent and ongoing training to the council so that the council could fulfill its statutory duties. (11)

After the draft copy was provided to Education, we notified it that we were no longer making this recommendation to Education. Rather, we were redirecting the recommendation to the Legislature. In light of the legislative history of the statute, which strongly suggests that the Legislature intended the Greene Act to apply only to local agencies, we recommend that the Legislature consider whether it wishes to clarify its intent with regard to the application of the Greene Act to the state parent council. (12)

(13) We do not imply that Education has failed to comply with the Greene Act. In fact, on page 54, we specifically state that for the meeting agendas we reviewed, Education complied with the Greene Act requirements.

(14) Education's response typifies its continued belief that, because it requested the audit from the Legislature, it was uniquely qualified to interpret the Legislature's intent and therefore direct us to conduct the audit according to its interpretations. Our audit report demonstrates our review of California's migrant program within the scope we were assigned by the Legislature. During our review, we identified significant gaps in the program data that make it impossible to draw conclusions about the program any more broadly than those included in the report. In fact, on page 69, in its response to our report, Education makes the statement that, "It is important to note that before the Department can accurately collect and analyze program service and outcome data, it must be able to identify and measure those services and verify they are being delivered." As we discuss on page 42, Education does not currently collect enough detailed information about the migrant program to allow it to fully assess the effectiveness of the program. Further, we explain on page 47 that without such information, Education is unable to assess whether its statewide service contracts are having a sufficient impact on migrant students' academic achievement. Again, on page 50, we explain that a meaningful examination of the regional service delivery structure will not be fully informed until Education addresses gaps in performance data and its administrative cost calculations.

(15) We believe that we have met the objectives specified by the Legislature when it directed us to provide an independent, impartial audit of the state and local implementation of the federally funded migrant program. We also made many recommendations that, if implemented, will address the audit's findings.

(16) Education's implication that we did not review recorded video of the state parent council meetings is false. As we stated to Education during the audit, our audit staff reviewed recorded meetings of the state parent council. The improvements that Education has made to its relationship with the state parent council that we detail on pages 52, 53, and 55 were sufficient to show us that Education has been taking steps to address longstanding problems with the state parent council. Consequently, we did not feel the need to make additional recommendations in this area of the program.

(17) Education's assertion that because we did not attend regional director's council meetings we did not provide the proper context to our discussion of the relationship between Education and some regional directors is not true. Our review of the relationship

between Education and the regional directors included interviews with multiple regional directors and with Education's own migrant program leadership. In addition, we reviewed a variety of correspondence between Education and the regional directors. In this review, we noted that the relationship between Education and some regional directors and staff has been characterized by disagreements over allowable purchases (pages 14 through 16), the true value of administrative costs (page 31), and implementation of an administrative cost goal (page 31). As we note on page 41, Education's migrant program director acknowledged that conversations with certain regional directors are still unproductive. It is unclear to us what additional perspective we would have gained from attending regional director's council meetings, especially since our presence at the meetings likely would have affected whatever tone and display of professionalism Education may be concerned about.

Despite Education's statement, our report contains multiple recommendations that address the findings of our review. We expect that the substance of our report, and the recommendations, make it clear that to improve its administration of the program, Education must focus on fair, clear, and consistent communication with the regions, the state parent council, and other stakeholders. We acknowledge staff turnover in the migrant program office is a difficult condition that the office faces as it attempts to make improvements to the program. However, staff turnover is a personnel issue that Education's management is in the best position to address. (18)

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(Agency comments provided as text only)

San Joaquin County Office of Education
Post Office Box 213030
Stockton, CA 95213-9030

February 8, 2013

Elaine M. Howle, State Auditor*
California State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

The following are responses to the audit report finding from the San Joaquin County Office of Education (SJCOE):

Conflict of Interest

SJCOE does not dispute the factual issues as stated by the auditors; however, we do reject the inference that our responses were in any way inadequate or inappropriate. (1)

Both of my Deputy Superintendents and myself have each been employed with SJCOE for more than twenty years. During this long history, we have found it necessary on numerous occasions to dismiss both management and non-management employees from their positions for a variety of reasons. Irrespective of the reason for the dismissal, and particularly in the absence of clear evidence of intent to defraud, it is our practice to attempt to secure resignation agreements in lieu of unilateral dismissals of the impacted employees so as to limit subsequent litigation and the resulting legal fees that SJCOE would otherwise have to pay to defend itself.

In the case of the resignation agreement of this Migrant Education Director, we did not have clear evidence of any intent to defraud the SJCOE or the Migrant Education Program. In the case of the catering, as the auditors point out, the food was provided as agreed, and at a more than reasonable cost. In my view, we received the service as we had contracted.

In the case of the janitorial contract, in retrospect, it is clear that the amount paid may have been higher than that which could have been obtained from another vendor. Again, as the auditors point out, there was no reason for our purchasing department to suspect any abnormality in this contract since the vendor/husband's last name was different than the director's name. Furthermore, the failure of our Purchasing Department to detect a per square footage cost that was excessive reflects a weakness in that department, which we are moving to correct. I do not believe that this was an attempt on the director's part to commit fraud. The purchase orders that authorized the custodial contract were signed by the Director of Operations and not by the Migrant Education Director, who lacked such authority. (2) (3)

In the judgment of SJCOE senior management, given the totality of the circumstances, the infractions committed by the director did not rise to the level of calling for prosecution. In light of that, and given that the director had a contract through June 30, 2012, to have pursued prosecution rather than the more expeditious and financially effective course of obtaining a resignation agreement would have been

* California State Auditor's comments appear on page 83.

a costly use of taxpayer funds, which would not have served the public interest. Management believed, and continues to believe, that loss of employment, review by the California Commission on Teacher Credentialing, subsequent suspension of her credential, and probable permanent career damage, was punishment enough for a demonstrated lapse of good judgment on the director's part. SJCOE analyzed the Migrant Director's financial situation and deemed that any resulting civil judgment against her would be uncollectable, as she did not possess any money or fungible assets. To pursue recovery of funds paid would have been fruitless and a waste of public resources. The prudent course was to obtain a resignation agreement and avoid the cost of litigation, which is what we did. We stand by our decision.

Specific Comments Related to the Draft

Please amend footnote 3 regarding the letter of recommendation to read as follows:

4 The Deputy Superintendent stated that he ultimately did not provide a letter of recommendation for this individual.

We would like to add: because the director withdrew the request.

Relative to the auditor's statement that SJCOE did not notify education about this possible conflict of interest until December 2012, SJCOE is unaware of any code or regulation that requires us to provide such notice
5 to the California Department of Education. Since this is an internal personnel issue and because the cost of the settlement agreement was borne by SJCOE's general fund and not by any Migrant Education Program funding sources, we did not believe that such notification was necessary.

Sincerely,

(Signed by: Mick Founts)

Mick Founts, Ed.D.
Superintendent of Schools

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE SAN JOAQUIN COUNTY OFFICE OF EDUCATION

To provide clarity and perspective, we are commenting on San Joaquin County Office of Education's (San Joaquin) response to our audit. The numbers below correspond to the numbers we have placed in the margin of San Joaquin's response.

We make no implication regarding the adequacy of San Joaquin's response to the conflict of interest. Our report contains factual information regarding what actions San Joaquin did and did not take—facts San Joaquin does not dispute. (1)

San Joaquin misrepresents our report text. The footnote on page 25 related to the last name of the former director's husband is an assertion made by San Joaquin, not a conclusion by us. The same last name is not the only method by which a conflict of interest can be discovered; common addresses could also be another means of discovery. Indeed, San Joaquin ultimately discovered the conflict of interest despite the difference in last names between the former director and her then-husband. (2)

We appreciate San Joaquin's acknowledgment of improvements it can make in its review of contract agreements. As we report on page 27, San Joaquin also agreed that it will reevaluate its procurement policies, revise its outdated conflict-of-interest code, and provide conflict-of-interest training to all of its managers. (3)

We have added this text to the report on page 25. The footnote number to which San Joaquin refers shifted during the editing process. (4)

San Joaquin incorrectly asserts this was only an internal personnel issue. As we state on page 25, San Joaquin used approximately $144,000 in federal migrant education program (migrant program) funds to pay contractors with which the former director had a conflict of interest. The California Department of Education (Education) is the state agency responsible for ensuring that these funds are spent in accordance with all applicable state laws. Further, in its annual agreement with Education, San Joaquin signs assurances that it will use the funding in accordance with all applicable state laws. We would have expected that after discovering its migrant program misused federal funds, San Joaquin would have notified Education and attempted to resolve the matter. Instead, San Joaquin delayed notifying Education about the inappropriate use of federal funds until after we discovered the conflict of interest and it became clear that we would be notifying Education. (5)

cc: Members of the Legislature
Office of the Lieutenant Governor
Little Hoover Commission
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press