

III. Analysis

A. Overview of Issues To Be Resolved in Determining Whether a Compliance Agreement Is Appropriate

In deciding whether a compliance agreement between the Assistant Secretary and the ISDE is appropriate, the Assistant Secretary must first determine whether compliance by the ISDE with the Title I standards and assessment requirements is genuinely not feasible until a future date. 20 U.S.C. 1234f(b). The second issue that the Assistant Secretary must resolve is whether the ISDE will be able, within a period of up to three years, to come into compliance with the Title I requirements. Not only must the ISDE come into full compliance by the end of the effective period of the compliance agreement, it must also make steady and measurable progress toward that objective while the compliance agreement is in effect. If such an outcome is not possible, then a compliance agreement between the Assistant Secretary and the ISDE would not be appropriate.

B. The ISDE Has Failed To Comply Substantially With Title I Standards and Assessment Requirements

In October 2000, the ISDE submitted evidence of its final assessment system. The Assistant Secretary submitted that evidence to a panel of three assessment experts for peer review. Following that review, the Acting Deputy Assistant Secretary for Elementary and Secondary Education Thomas Corwin concluded that ISDE's proposed final assessment system did not meet a number of the Title I requirements. Specifically, the Acting Deputy Assistant Secretary determined that the ISDE must do the following:

- Provide information on Idaho's proposed standards based assessment system.
- Provide evidence that its accountability system will allow the results of the Idaho final assessment system, including local assessments where applicable, to be the primary indicators of adequate yearly progress.
- Provide evidence that performance standards have been developed and implemented and that they are aligned with Idaho's content standards and the Idaho assessment system that is being developed.
- Provide clear and concise information on the enrollment of limited English proficient students and students with disabilities in the State at the assessed grade levels and provide information on the number of limited English proficient students and students

with disabilities who take the standard form of the Idaho assessments and the Idaho assessments with accommodations, and the number of those students exempted or excluded from the Idaho assessment program.

- Provide a copy of its inclusion policy for limited English proficient students and provide documentation that the State Board of Education has approved it. Included in that policy should be information on accommodations for limited English proficient students. A plan for implementing the new inclusion policies and for monitoring LEA compliance with the new inclusion policies when they are approved should also be provided.

- Submit information on the technical quality of the Idaho alternate assessment for students with disabilities as well as information that indicates the extent to which accommodations associated with the norm-referenced tests and State-developed assessments yield valid results for students with disabilities, as well as information regarding any accommodations that are planned for the Direct Mathematics and Writing assessments and the technical quality of those accommodated assessments.

- Document how it will incorporate performance data for all Idaho students into its reporting of results for assessment and accountability purposes.

- Provide evidence regarding the extent to which the components of the Idaho Assessment Program are aligned with Idaho standards.

- Provide technical information on each of the components of the Idaho Assessment Program and information on how Idaho ensures the fairness of its assessments for all students.

- Provide evidence on how the multiple measures that have been incorporated in the Idaho Assessment Program affect the validity, reliability, and fairness of those assessments.

- Disaggregate student performance by gender, race/ethnicity, migrant status, disability (versus non-disability), economic disadvantage (versus non-disadvantaged), and limited English proficiency status at the LEA and school levels. In addition, Idaho must add economic disadvantage to the categories that are currently being disaggregated at the State level.

- Define for LEAs which students are to be included in determining adequate yearly progress (AYP) for schools and LEAs.

- Provide a plan for evaluating the AYP of its small schools and K-3 schools.

C. The ISDE Cannot Correct Immediately Its Noncompliance With the Title I Standards and Assessment Requirements

Under the Title I statute, ISDE was required to implement its final assessment system no later than the 2000-2001 school year. 20 U.S.C. 6311(b)(6). ISDE submitted evidence of its assessment system in October 2000, but the Acting Deputy Assistant Secretary determined, on the basis of that evidence, that ISDE's system did not fully meet the Title I requirements. Due to the enormity and complexity of developing a new assessment system that addressed the Acting Deputy Assistant Secretary's concerns, the ISDE was not able to complete that task between the time it submitted its system for review and the Idaho 2001 assessment window. Thus, in 2001, the ISDE administered assessments that the Acting Deputy Assistant Secretary had determined did not meet the Title I requirements. As a result, the Assistant Secretary finds that it is not genuinely feasible for ISDE to come into compliance until a future date.

D. The ISDE Can Meet the Terms and Conditions of a Compliance Agreement and Come Into Full Compliance With the Requirements of Title I Within Three Years

At the public hearing, the ISDE presented evidence of its commitment and capability to come into compliance with the Title I standards and assessment requirements within three years. For example, Idaho entered into a contract to develop reading and mathematics assessments within one year at grades 4, 8 and 10. Idaho has established a process for developing performance descriptors and to define performance levels for its assessment system with broad based involvement of Idaho citizens and has established a timeline for approving the performance descriptors and performance levels. Idaho has also received approval from the Department for its academic content standards.

Finally, the ISDE has developed a comprehensive action plan, incorporated into the compliance agreement, that sets out a very specific schedule that the ISDE has agreed to meet during the next three years for attaining compliance with the Title I standards and assessment requirements. As a result, the ISDE is committed not only to coming into full compliance within three years, but to meeting a stringent, but reasonable, schedule for doing so. The action plan also demonstrates that the ISDE will be well