



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

SEP 28 2000

THE INSPECTOR GENERAL

Control Number ED-OIG/A06-A0006

Michael J. Davis
State Superintendent of Public Instruction
New Mexico State Department of Education
300 Don Gaspar
Santa Fe, NM 87501-2786

Dear Mr. Davis:

This *Final Audit Report* presents the results of our audit of New Mexico State Department of Education (State) and Local Educational Agencies' (LEAs) compliance with the Gun-Free Schools Act of 1994 (Act). The objective of our audit was to determine if the State and the LEAs were in compliance with the Act for the 1997-98 school year.

A draft of this report was provided to the State. The State concurred with our findings and recommendations. The State's response described the corrective actions implemented or planned to address the findings. A copy of the State's response to the draft is included as an attachment to this letter.

AUDIT RESULTS

FINDING NO. 1 – Albuquerque Public Schools Did Not Comply With the Act

We determined that the Albuquerque Public Schools (Albuquerque), the largest LEA in the State with over 85,000 students, did not comply with the requirements of the Act for the 1997-98 school year. Albuquerque did not expel 14 of the 26 students who were involved in firearm incidents during the year. Further, Albuquerque did not report correctly to the State the actions it took against students that were expelled for bringing a firearm to school.

The Act states that each State receiving Federal funds under the Elementary and Secondary Education Act of 1965 (ESEA) must have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each State's law also must allow the chief administering officer of each LEA to modify the expulsion requirement on a case-by-case basis. The New Mexico Statutes Annotated §22-5-4.7, *Weapon-Free Schools*, fulfills this requisite. Additionally, Albuquerque's Student Behavior Handbook states that expulsion is the standard consequence for firearm possession.

In October 1995, the Department provided guidance on State and local responsibilities under the Act and the consequences for not complying with the Act, "...failure to comply with the requirements ... could result in the withholding, under the provisions of the General Education Provisions Act, of funds made available to the State under ESEA...." Albuquerque expended almost \$19 million in ESEA funds for the 1997-98 school year.

Albuquerque reported to the State 12 expulsions for firearm incidents for the 1997-98 school year. However, we identified from local law enforcement reports and other records 26 students who were involved in firearm incidents. Although Albuquerque was unable to specifically identify the 12 students that it reported to the State, we confirmed that Albuquerque expelled 12 of the 26 students. Based on enrollment records, we determined that Albuquerque did not expel the remaining 14 students involved in firearm incidents.

Further, Albuquerque reported to the State that none of the 12 expelled students were referred to an alternative setting. We identified nine expelled students who were referred to alternative programs and/or schools. Referring students to alternative settings is permissible; however, the number of expelled students referred to alternative settings must be reported to the State.

Albuquerque also reported that no students were expelled for less than one calendar year. We determined that 10 students were expelled for less than one calendar year. The chief administering officer for the LEA may specify a shorter period of expulsion on a case-by-case basis, but the LEA is required to report the number shortened to the State. Albuquerque did not provide any documentation of the basis for expulsions that were less than one year.

Albuquerque officials told us that normally expulsion data is included in the student disciplinary records. Albuquerque's Policies and Procedures Manual states that the disciplinary records are to be maintained for five years after an incident or two years after last attendance. However, Albuquerque did not comply with these requirements. Albuquerque officials told us that the 1997-98 school year disciplinary records were not available because the records had been destroyed.

The State conducts onsite monitoring every three years of each LEA's compliance with the State and Federal requirements. However, that monitoring does not include LEA compliance with the Act requirements. As a result, the State has limited assurance that all LEAs are complying with the Act and correctly reporting firearm incident expulsions (i.e., removal of students from their regular educational programs).

RECOMMENDATIONS

We recommend that the Assistant Secretary for Elementary and Secondary Education require the State to:

- 1.1 Require Albuquerque to implement controls that would ensure: (a) appropriate actions are taken against students who bring firearms to school; (b) correct number of firearm incidents is reported to the State; and (c) appropriate documentation of firearm incidents and LEA actions is maintained.
- 1.2 Review Albuquerque's compliance with the Act for the 1998-99 and 1999-00 school years.
- 1.3 Withhold any future ESEA funds if Albuquerque repeats or fails to correct the violations.
- 1.4 Include compliance with the Act in its periodic monitoring of LEAs.

FINDING NO. 2 – The State Did Not Accurately Report Firearm Incidents

Our audit found errors in the manner in which the State collected and reported data for the 1997-98 school year. According to the Act, each LEA is to report to the State a description of the circumstances surrounding any expulsions, including the name of the school concerned, the number of students expelled, and the type of weapons involved. Each State is required to report the information to the U.S. Department of Education (Department) on an annual basis.

The State reported 32 firearm incidents to the Department (12 at Albuquerque and 20 at the other LEAs) for the 1997-98 school year. Based on the LEAs' reports to the State, the State should have reported at least 36 firearm incidents to the Department.

- Las Cruces Public Schools initially reported five firearm incidents to the State. School records support that the correct number of firearm incidents for the 1997-98 school year was three. However, during the review process between the State and the LEA, the State incorrectly changed the number of incidents to zero.
- Hobbs Public Schools reported one firearm incident, but it was not entered into the State database and was not reported to the Department.

A State official entered the data submitted by the LEAs into the State's database. The State used the information from the database to prepare its report to the Department. However, the State did not verify that the data entered into the database were correct and that it agreed with the number of firearm incidents reported by each LEA.

Inaccurate data can result in a misunderstanding of the nature and extent of the problem of students bringing firearms to school on a local, State, and National level. In addition, inaccurate data can result in the State and LEA officials being unable to properly determine if the Act's provisions are being enforced consistently in their jurisdictions.

RECOMMENDATIONS

We recommend that the Assistant Secretary for Elementary and Secondary Education require the State to improve its controls by:

- 2.1 Requiring LEAs to submit corrected reports of firearm incidents when errors are detected.
- 2.2 Verifying the accuracy of LEA data input into the State's database of LEA firearm incidents.

BACKGROUND

The Gun Free Schools Act of 1994 (Title 20 U.S. Code Sections 8921, 8922, and 8923) requires States to have in effect a law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a firearm to school. The Act provides that the State law shall allow each LEA's chief administering officer to modify such expulsion requirement on a case-by-case basis. The Act also requires States to report annually to the Department information on firearm expulsions under the State law.

The Act requires LEAs to comply with the State law, provide an assurance of compliance with the State law to the State, report annually to the State information on expulsions under the State law, and implement a policy requiring referral to a criminal justice or juvenile delinquency system of any student who brings a weapon to school.

For the 1997-98 school year, 15 of the 89 LEAs in the State of New Mexico reported expulsions due to firearm incidents. The State reported to the Department that 32 students were expelled because they brought firearms to school during the 1997-98 school year.

OBJECTIVE, SCOPE AND METHODOLOGY

The primary objective of our audit was to determine if the State and LEAs were in compliance with the Act for the 1997-98 school year. Our work in New Mexico was part of a multi-State audit of State and local compliance with the Act. Seven States were selected as auditees; six of the States, including New Mexico, were randomly selected. On the basis of student population, the LEAs within the State of New Mexico were categorized as large, medium, and small. Twelve LEAs (four from each category) were then randomly selected. From the twelve, we judgmentally selected six LEAs (two from each category) for site visits. The six LEAs from largest to smallest were Albuquerque, Las Cruces, Roswell, Artesia, Bloomfield, and Dulce. We selected four schools within each of the LEAs (except Dulce, which has only three schools) where we conducted interviews with administrators and faculties.

To accomplish our objective, we reviewed applicable New Mexico State laws and LEA policies, the methodology used by the State and LEAs to collect and report expulsion data, and selected student files. We also interviewed State, LEA, parent organization representatives, and law enforcement officials. (See Table I)

TABLE I

SUMMARY OF OFFICIALS INTERVIEWED			
State Administrators	2	Guidance Counselors	27
LEA Administrators	11	School Security Staff	13
Principals and Assistant Principals	47	Parent-Teacher Representatives	6
Teachers	93	Law Enforcement Officials	18
Subtotal	153	Subtotal	64
TOTAL			217

We performed our fieldwork at the State and the six LEAs from February 15 through May 4, 2000. Our audit was performed in accordance with government auditing standards appropriate to the scope of the review described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of our review we assessed the system of management controls, policies, procedures, and practices applicable to the State and the selected LEAs' compliance with the Act. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objective.

For purposes of this report, we assessed and classified the significant controls into the following categories:

- Compliance with the State law expulsion requirement
- Compliance with the State law referral policy
- Data collection and reporting

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed management control weaknesses which adversely affected the State and LEAs' ability to comply with the Act. These weaknesses included inadequate procedures for collecting and reporting data and monitoring. These weaknesses are discussed in the Audit Results section of this report.

ADMINISTRATIVE MATTERS

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department of Education official, who will consider them before taking final Department action on the audit:

Michael Cohen
Assistant Secretary for Elementary
and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Room 3W315
Washington, DC 20202

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

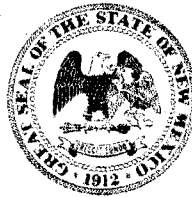
In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemption in the Act.

Sincerely,



Lorraine Lewis

Attachment



STATE OF NEW MEXICO
DEPARTMENT OF EDUCATION — EDUCATION BUILDING
SANTA FE, NEW MEXICO 87501-2786

MICHAEL J. DAVIS
SUPERINTENDENT OF PUBLIC INSTRUCTION

Telephone: (505) 827-6516
Fax: (505) 827-6696

September 15, 2000

Sherri L. Demmel, Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
1999 Bryan Street, Suite 2630
Dallas, TX 75201-6817

Dear Inspector General Demmel:

The Draft Audit Report of New Mexico State Department of Education (SDE) and Local Education Agencies' (LEAs) compliance with the Gun-Free Schools Act of 1994 (Act) has been received and reviewed. I appreciate the time allowed in order to provide you with written comments on the findings and recommendations, as required.

Finding No. 1 – Albuquerque Public Schools Did Not Comply With the Act

The SDE concurs with this finding and the recommendations cited in the Draft Audit Report. In response to this finding, the SDE has corresponded and met with Albuquerque Public Schools (APS) representatives to evaluate the corrective plan, implementation controls and activities that APS administration has been developing along with their Research and Development Office (see attached response from APS).

APS has now developed a comprehensive history reporting database that complies with the Gun Free Schools Act (GFSA). As of this date APS has 80% of the program converted to a specifically designed database that addresses the GFSA requirements and all non-compliance issues raised by the audit. APS has planned trainings district-wide on the GFSA to be completed Semester I of 2000-01 school year. Staff missing the trainings will have make-up opportunities Semester II, 2000-01.

The SDE will continue to monitor APS' progress, provide supportive information and evaluate the final overall action plan and outcomes to assure compliance with the GFSA. Further, all New Mexico LEAs have been provided with training on the requirements of the GFSA at two of the State's Spring Workshops and mailing with information on the

GFSA have been supplied to LEAs. The State has contacted and discussed concerns on audit findings and corrections needed by the audited LEAs reported.

The following action has taken place in direct response to the recommendations under Finding No. 1 of the Draft Audit Report:

1.1 Require Albuquerque to implement controls

The APS has developed a plan of action to meet all recommendations:

- appropriate actions are taken against students who bring firearms to school
- correct number of firearm incidents are reported to the State
- appropriate documentation of firearm incidents and APS actions is maintained

1.2 Review Albuquerque's compliance with the Act

In review of the new APS system there appears to be corrective compliance with the GFSA for the 1998-99 and 1999-00 school years.

1.3 Withhold any future ESEA funds if Albuquerque repeats or fails to correct

If APS fails to take corrective actions or repeat the violations, withholding any future ESEA funds will be considered by the SDE.

1.4 Include in its periodic monitoring of LEAs compliance with the ACT

There is periodic monitoring of LEAs through the accreditation and yearly application processes. LEAs are required to sign an assurance of compliance with the GFSA as part of these processes. In addition, the LEAs are required to submit annual violence and vandalism reports which address this recommendation.

Finding No. 2 – The State Did Not Accurately Report Firearm Incidents

The Draft Audit Report determined that the SDE reported less firearm incidents in 1997-98 than reported by LEAs. During the time of reporting the SDE had turnover in staff responsible for the report. When the report was transferred from draft to final copy the error was not caught. Therefore, the State did not verify that the data entered into the database was correct as reported.

The following action has taken place in direct response to the recommendations under Finding No. 1 of the Draft Audit Report:

2.1 Requiring LEAs to submit corrected reports of firearm incidents when errors are detected

The recommendation requiring LEAs to submit corrected reports of firearm incidents when errors are detected is supported by the SDE. A process for this will be developed by the SDE.

2.2 Verifying the accuracy of LEA data into State's database of LEA firearm incidents

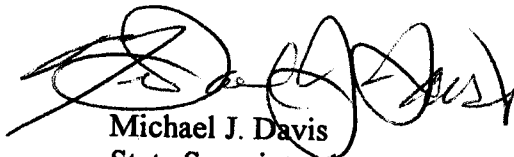
The SDE concurs with this recommendation.

As routine and general practice the SDE calls individual schools when discrepancies appear in their reports. If no discrepancies appear, data is entered as reported from the LEA.

The SDE would like clarification concerning the intent of this recommendation. If the intent of this recommendation is for the SDE to conduct onsite audits of LEAs to verify accuracy of firearm incidents, then in order to comply with this recommendation, the SDE would require an increase in manpower. For that to occur additional federal funding would be necessary.

Thank you for the assistance that has been provided by Danny Jones and your office. Please advise me if further information is needed from my staff in the School Health Unit.

Sincerely,



Michael J. Davis
State Superintendent
of Public Instruction

MDJ:KMM

Enclosure: As stated

XC: Brad Allison, Ph.D., Superintendent, APS
Sue Griffith, Associate Superintendent, APS
Jack McCoy, Division Director, SDE
Kristine M. Meurer, Ph.D., School Health Director, SDE
S. Pauline Anaya, Safe and Drug Free Schools Coordinator, SDE

ALBUQUERQUE PUBLIC SCHOOLS

APPENDIX

P.O. Box 25704

725 University SE

Albuquerque, New Mexico 87125

(505) 842-3647 Fax: (505) 842-4584

Bradford Allison, Ph.D.
Superintendent

September 14, 2000

S. Pauline Anaya, Director
Title IV / S&DFS&CP
120 South Federal Place, Room 206
Santa Fe, NM 87501

Dear Ms. Anaya:

We have reviewed the copy of the draft audit report from the U.S. Department of Education, Office of Inspector General. The attached comments and corrective actions address the areas of noncompliance referenced in the report. The corrective actions also include timeframes for implementation and completion.

If you need any further information, please contact me.

Sincerely,



Bradford Allison, Ph.D.

cc: Michael J. Davis, State Superintendent
Danny R. Jones, U.S. Office of the Inspector General
Joseph M. Vigil, Associate Superintendent
Catherine Cross Maple, Ph.D., Director of Organizational Development
Wil Sandoval, Director of Categorical Programs
Gil Lovato, Chief, APS Police

Character Counts

Trustworthiness**Respect For Others**Responsibility**Fairness**Caring**Citizenship
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Gun Free School Act Audit for 1997-98: Albuquerque Public Schools

<ul style="list-style-type: none"> • They did not expel 14 of the 26 students who were involved in firearm incidents during the year. 	<ul style="list-style-type: none"> • 1.0 The district's Hearing Authority found extenuating circumstances in some instances; or six students were classified as needing Special Education and were placed in alternative education services. 	<ul style="list-style-type: none"> 1.1 The district's Hearing Authority will document the extenuating circumstances and maintain records for the time period required by the law, effective immediately. 1.2 All APS Police and school principals / assistant principals will be provided training about firearm possession and expulsion requirements under the Act, by January 1, 2001. 	<p>1.1 District's Hearing Authority</p> <p>1.2 District's Hearing Officer</p>
<ul style="list-style-type: none"> • They did not report correctly to the SDE the actions it took against students that were expelled for bringing firearm to school. 	<ul style="list-style-type: none"> • 2.0 Although the APS Police ultimately provided the report for the school district, the District's Hearing Authority did not have a mechanism developed for internal reporting and verification of expulsion hearings. In implementing the reporting requirements at that time, the information was reported independently and was not cross referenced among the Albuquerque Police, the Bernalillo County Sheriff, the APS Police, the District's Hearing Authority, and the two other departments involved with data collection and reporting about hearing procedures and disciplinary actions, including special education students. 	<ul style="list-style-type: none"> 2.1 The APS Police shall be responsible for providing the District's Hearing Authority, the District's Hearing Officer, and the school principal with any school firearm possession charges filed through the Albuquerque Police Department or Bernalillo County Sheriff; and for reporting information to the SDE, effective immediately. 2.2 The District's Hearing Officer shall be responsible for conducting the expulsion hearing; and providing proper documentation to the APS Police, the District's Hearing Authority and the school principal, effective immediately. 2.3 The District's Hearing Officer shall be responsible for monitoring the school principal's completion of the District's Hearing Notice regarding the firearm possession charge, effective immediately. 2.4 The School Principal shall be responsible for completing the District's Hearing Notice and forwarding it to the District's Hearing Office, effective immediately. 	<p>2.1 APS Police Chief</p> <p>2.2 District's Hearing Officer</p> <p>2.3 District's Hearing Officer</p> <p>2.4 Individual School Principal</p>

<p>• They reported to SDE 12 expulsions for firearm incidents for 97-98. However other local law enforcement reports and records indicated 26 students were involved in firearm incidents. APS was unable to specifically identify the 12 students reported to SDE, confirmed was that APS expelled 12 of the 26 students. Based on enrollment records, the audit determined that APS did not expel the remaining 14 students involved in firearm incidents.</p>	<p>• See prior comments 2.0.</p> <p>• 3.0 Additionally, the fourteen students assumed to not be expelled, could either have been adjudicated and not in school or placed in an alternative program. In addition, due to NM State Law references to weapon as a fire arm, some confusion did exist among principals as to what was truly a fire arm possession (NMSA 1978, 30-7-2-1).</p>	<p>2.5 The Research Development and Accountability shall be responsible for compiling and reporting suspension and expulsion data to the District's Hearing Office and AFS Police, with written procedures in place by December 1, 2000.</p> <p>2.6 The Superintendent shall be responsible for ensuring compliance with the Act, effective immediately.</p> <p>2.1 - 2.6 See prior Proposed or Implemented Corrective Action</p> <p>3.1 The District's Hearing Officer shall conduct principal / assistant principal and Special Education Program Support Specialist training sessions about responsibilities and clarification of information for compliance with the Gun Free Schools Act, by January 1, 2001.</p>	<p>2.5 Director of Research Development and Accountability</p> <p>2.6 Superintendent</p> <p>2.1 - 2.6 See prior Responsibility designees</p> <p>3.1 District's Hearing Officer</p>
<p>• They reported 12 expulsions for firearm incidents for 97-98 school year. However auditor identified (9) nine expelled students who were referred to alternative programs and/or schools. Referring students to alternative settings is permissible; however the number of expelled students referred to alternative settings must be reported the State.</p>	<p>• See prior comments 2.0 and 3.0.</p>	<p>2.1 - 3.1 See prior Proposed or Implemented Corrective Action</p>	<p>2.1 - 3.1 See prior Responsibility designees</p>

<ul style="list-style-type: none"> • They reported that 10 students were expelled for less than one calendar year. Audit determined that 10 students were expelled for less than one calendar year. The chief administering officer of LEA <u>may</u> shorten the expulsion, <u>BUT</u> the LEA is required to report the number of shortened, to the SDE. 	<ul style="list-style-type: none"> • See prior comments 2.0 and 3.0. 	<p>2.1 - 3.1 See prior Proposed or Implemented Corrective Action</p>	<p>2.1 - 3.1 See prior Responsibility designees</p>
<ul style="list-style-type: none"> • They did not provide any documentation of the basis for expulsions that were less than one year. 	<ul style="list-style-type: none"> • 4.0 The District's Hearing Authority did not maintain records for that time period. 	<p>4.1 The District's Hearing Authority shall maintain documentation of the basis for which expulsions were less than one year, effective immediately.</p>	<p>4.1 District's Hearing Authority and Superintendent</p>
<ul style="list-style-type: none"> • The officials told auditors that normally expulsion data is included in the student disciplinary records are to be maintained for five years after an incident, or two years after last attendance. APS did not comply with these requirements. The 97-98 disciplinary records were not available because the records had been destroyed. 	<ul style="list-style-type: none"> • 5.1 Schools seem to have been confused about which disciplinary records must be maintained. 	<p>1.1 - 1.2 See Prior Proposed or Implemented Corrective Action</p>	<p>1.1 - 1.2 See Prior Responsibility Designees; Add School Principals</p>

Gun Free School Act Audit for 1997-98: Albuquerque Public Schools

Draft Audit Recommendations	APS Comment	Proposed or Implemented Corrective Action	Responsibility
<p>1.1 Implement controls that would endure: (a) appropriate actions are taken against students who bring firearms to school; (b) correct number of firearm incidents are reported to the State Department of Education; (c) appropriate documentation of firearms incidents and the District's actions is maintained for appropriate period of time.</p>	<p>• 1.1.0 APS fully commits to these recommendations.</p>	<p>• See prior Proposed or Implemented Corrective Actions 1.1 - 4.1</p>	<p>• See prior responsibility designees 1.1 - 4.1</p>
<p>1.2 Review APS compliance with the Act for 1998-99 and 99-00 school years.</p>	<p>• 1.2.0 An internal APS Audit will be completed.</p>	<p>• 1.2.1 Conduct an Internal APS audit for assessing compliance and targeting additional training, by January 15, 2001.</p>	<p>• 1.2.1 Lead Converter; Director of Research Development and Accountability, along with the APS Police Chief, Associate Superintendent, and District's Hearing Officer.</p>
<p>1.3 Withhold any future ESEA funds if Albuquerque repeats or fails to correct the violations.</p>	<p>• 1.3.0 Failure to correct violations first merits review of the implemented corrective actions to assess how the procedures and actions implemented did not address reporting and compliance requirements. Then, required modifications are specified by the U.S. Inspector General's Office with implementation according to specified time-frames. APS has not purposefully neglected to implement Safe & Gun Free Schools Act requirements. The audit findings are related to deployment of information issues that often exist in large organizations. Procedures and policies are in place and meet the Act's requirements. Compliance and collaboration about reporting are consistency issues that the proposed corrective actions are designed to address.</p>	<p>• 1.3.1 Implement any further corrective actions required by future auditors.</p>	<p>• 1.3.1 Superintendent</p>