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April 11, 2006

Control Number
ED-OIG/A02-F0005

Dr. Betty J. Sternberg
Commissioner
State Department of Education
165 Capital Avenue
Hartford, CT 06106

Dear Commissioner Sternberg:

This **Final Audit Report**, entitled *New Haven School District's Administration of Title I, Part A Summer and After School Programs*, presents the results of our audit. The objective of the audit was to determine whether the New Haven Public Schools (New Haven) properly administered summer and after school programs funded with Elementary and Secondary Education Act (ESEA), Title I, Part A (Title I) funds, in accordance with Federal laws and regulations. Our review covered the period July 1, 2001, through June 30, 2004.

In its comments to the draft report, the State of Connecticut Department of Education (State) strongly requested our reconsideration of the audit finding and recommendations. The State enclosed a detailed response prepared by New Haven school officials. The State did not concur with the finding and all four of the recommendations. Because of the voluminous number of attachments included in the State's comments to the draft report, we have not included them in this report. Copies of the attachments are available on request. We summarized the State's comments at the end of the finding and included them as **Attachment B** to the report.

BACKGROUND

The Title I program is authorized under ESEA, as amended by the Improving America's Schools Act of 1994, Public Law 103-382, and the No Child Left Behind Act of 2001, Public Law 107-110. Title I is the largest elementary and secondary education program, which supplements State and local funding for low-achieving children, especially in high-poverty schools. Part A of Title I provides financial assistance through State Education

Agencies to local educational agencies (LEAs) to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments. Title I funds may be used by LEAs for schoolwide or for targeted assistance programs. Under a schoolwide program, an LEA may consolidate and use Title I funds with other Federal, State, and local funds in order to upgrade the entire educational program of a school if not less than 40 percent of the children enrolled in the school are from low-income families. All of New Haven's eligible Title I schools operated schoolwide programs during our audit period.

New Haven is a school district serving 20,694 students in 49 schools. Approximately 67 percent of New Haven's students qualified as economically disadvantaged. New Haven received Title I funding from the State totaling \$11.50 million for the grant period July 1, 2001, through June 30, 2003, \$14.70 million for the grant period July 1, 2002 through, June 30, 2004, and \$14.56 million for the grant period July 1, 2003 through, June 30, 2005. The approved grant applications for these periods stated that a portion of the Title I funds were to be used for eligible summer and after school programs.¹

New Haven operated summer and after school programs during the July 1, 2001, through June 30, 2004 period. For this period, New Haven's Title I summer program expenditures totaled \$3.78 million, and its after school program totaled \$1.03 million.² The following table provides the summer and after school program expenditures by school year (000s omitted).

Table 1—Summer and After School Program Expenditures by School Year				
Program	2001 - 2002	2002 - 2003	2003 - 2004	Totals
Summer	\$1,185	\$1,396	\$1,202	\$3,783
After School	343	352	334	1,029
Totals	\$1,528	\$1,748	\$1,536	\$4,812

Examples of the summer programs included: Grades 3 through 6 Mandatory,³ West Rock Hot Shot Basketball Camp, Superintendent's Executive CMT⁴ Camp (SECSC), and the Summer Tutorial and Enrichment program.

¹ The State's 2003-2004 Priority School District Consolidated Application for State and Federal Grants, Section 3, Title I Ranking Schools and Allocating Funds, states that school districts may choose to reserve funds for other authorized activities such as summer school. Such reservation would reduce funds available for distribution to schools.

² New Haven's internal summer programs budget was \$1.03 million for 2001-2002, \$1.09 million for 2002-2003, and \$1.40 million for 2003-2004, for a total of \$3.52 million for the three school years. For the balance of expenditures, New Haven used Title I carryover funds from prior years to pay for its summer programs.

³ Mandatory programs were for students who failed to meet the state standards on the Connecticut Mastery Test (CMT) and were at risk of not making the next grade.

⁴ The CMT provides an accurate assessment of how well students statewide are reaching the standards of achievement that have been established by the State Board of Education in reading, writing, and mathematics.

According to the State, the after school program provided a bridge between formal learning in school and informal learning in community -based organizations. Program curriculums and activities provided opportunities for stimulating curiosity and instilling the love of learning to lay the foundation for future successful learning in school and in life.

AUDIT RESULTS

New Haven generally accounted for and used Title I funds for its after school programs in accordance with applicable laws and regulations. For summer programs, we found that New Haven did not properly administer the \$3.78 million of Title I funds it expended, in accordance with Federal laws and regulations.

FINDING – The New Haven School District did not properly administer \$3.78 Million in Title I summer program funds

New Haven improperly expended \$3.78 million in Title I funds on ineligible summer programs. Our review of the summer programs disclosed that New Haven supplanted funds from non-Federal sources. In addition, 15 of New Haven's 21 summer programs either did not include documentation to support challenging academic instruction, were held in ineligible schools, or lacked proper documentation. (See **Attachment A** for ineligible summer programs). The City of New Haven's accounting system, the official accounting system for New Haven, identified expenditures in the aggregate and could not identify individual expenditures for its 21 summer programs. Accordingly, we questioned the entire \$3.78 million in Title I summer programs expenditures during the July 1, 2001, through June 30, 2004, period.

Supplanted Funds from Non-Federal Sources

New Haven expended Title I funds to supplant, rather than supplement, State funds for the Grades 3 through 6 Mandatory summer program and the Summer Studies program. Although New Haven's accounting system did not break out expenditures for each summer program, New Haven budgeted \$1.58 million for the Grades 3 through 6 Mandatory summer program and \$198,817 for the Summer Studies program, for a total of \$1.78 million. The Summer Studies program was for salaries of the Grades 3 through 6 Mandatory program paraprofessionals. The Director of Instruction for the summer programs stated that the Grades 3 through 6 Mandatory summer program was a State-required program. This program was for children who were at risk of failing and had to attend summer school. If the students failed to attend summer school, the New Haven Board of Education would not promote the student to the next grade. Since New Haven was a priority school district, as defined by the State, and Grades 3 through 6 Mandatory summer program was a State-required program, State funding should have been used

instead of Federal funds. As a result we are questioning the total amount of \$1.78 million.

Section 1120A(b)(1) of the ESEA requires a State educational agency or local education agency to use Title I funds received to supplement and not supplant the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under Title I.

Connecticut Statute, Title 10, Chapter 172, (2005), has provisions for priority school districts to fund summer programs for poor performing students. Section 10-265l, provides requirements for additional instruction for poor performing students in priority school districts:

Each local and regional board of education for priority school district . . . shall, within available appropriations, require the schools under its jurisdiction to provide additional instruction, unless the school principal determines that such instruction is not necessary based on the recommendations of the student's teacher, (1) for the 2000–2001 school year, and each school year thereafter, to each student who fails to meet the state-wide standard for remedial assistance on the reading component of the fourth grade mastery examination . . . [,] on the sixth grade mastery examination The instruction shall be designed to address the student's deficiencies and may include tutoring, an after school or school vacation program, or a weekend school program

No Documentation to Support Challenging Academic Instruction

We noted that 3 of the 21 summer programs had no documentation to support challenging academic instruction. According to the Director of the West Rock Hot Shot Basketball Camp, the academic portion of the basketball camp was geared toward the CMT. A review of the application submitted to the Director of Instruction, disclosed that the West Rock Hot Shot Basketball Camp was a free four-week camp open to all students. According to the application, the daily six and one-half hour schedule for academics included only 30 minutes for time-out reading and a computer literacy program during the camp's lunch period. The remaining time was spent on basketball games, drill sessions, and a camp competition. We concluded that the West Rock Hot Shot Basketball Camp documentation did not meet the academic content requirements of the ESEA.

According to the ESEA, § 1111(b)(1)(A), "Each State plan shall demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools to carry out this part"

Section, 1114(b)(1) of the ESEA states—

A schoolwide program shall . . . (ii) use effective methods and instructional strategies that are based on scientifically based research that (I) strengthen the core academic program in the school; (II) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and (III) include strategies for meeting the educational needs of historically underserved populations; [and] . . . include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards who are members of the target population of any program that is included in the schoolwide program.

Ineligible Schools

New Haven held five of its summer programs at ineligible schools. According to the documents provided by the Director of the Superintendent's Executive CMT Summer Camp, 9 of the 31 schools participating in this summer program were not eligible to receive Title I funding.

Section 1113 of the ESEA, Part (1) states, "A local education agency shall use funds received under this part only in eligible school attendance areas." Part (2)(A) states, "the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who normally served by that school reside."

Lack of Proper Documentation

New Haven officials were unable to provide proper documentation for 11 of 21 summer programs during our audit period. For example, the summer Tutorial and Enrichment program had no documentation to determine if it was eligible for Title I funding. The Superintendent of Schools stated that he had no documentation for this summer program. He could not provide attendance records, academic curricula, and test results.

According to 34 C.F.R. § 76.731, "A . . . subgrantee shall keep records to show its compliance with program requirements."

Connecticut Statute, Title 10, Chapter 172 (2005), has provisions for priority school districts to fund summer programs for poor performing students. According to Title 10, Chapter 172, § 10-265m, the State requires each local and regional board of education for a priority school district to submit a plan for the expenditure of grant funds for summer school programs. This plan shall include, criteria for student participation in the program, criteria for teacher selection that emphasize the skills needed for teaching the summer program, and criteria for establishment of the curriculum for the summer program.

New Haven officials addressed the after school and summer programs in their Priority School District Consolidated Application. However, they could not provide the documentation required by the State to determine if the 11 programs were eligible for Federal or State funding.

The problems with the summer programs occurred because New Haven officials did not properly monitor Title I expenditures. They also lacked an understanding in identifying summer programs eligible to be funded with Title I funds. As a result, New Haven improperly expended \$3.78 million⁵ of Title I funds to pay for ineligible summer programs during the July 1, 2001, through June 30, 2004 period.

Recommendations

We recommend that the Assistant Secretary for Elementary and Secondary Education, instruct the Connecticut Department of Education to:

- 1.1 Assure that New Haven's accounting system identifies all expenditures associated with each Title I summer program.
- 1.2 Require New Haven to identify and return Title I funds that it used to supplant State funding for the Grades 3 through 6 Mandatory program.
- 1.3 Require New Haven to identify Title I expenditures associated with ineligible summer programs and return those funds to the U.S. Department of Education, or return the entire \$3.78 million of Title I funds used to pay for summer programs.
- 1.4 Properly monitor New Haven's Title I expenditures to assure that the summer programs are eligible for Title I funds and that expenditures are properly documented in accordance with Federal and State laws.

State Comments:

The State disagreed with the finding and all four of the recommendations. The State contended that the audit methodology was seriously flawed and that the auditors failed to review the voluminous documentation and accounting records supporting the summer programs at issue. The State claimed that the draft report erroneously relied on budgeted figures rather than actual expenditures. The State commented that the draft report failed to take schoolwide flexibility into account and that each of the four rationales used to support the finding were inaccurate. Specifically, the State claimed that the audit incorrectly applied or misinterpreted: (1) summer program documentation requirements,

⁵ The City of New Haven's accounting system, the official accounting system for New Haven, identified expenditures of \$3.78 million made to the summer programs as a whole, but could not identify expenditures for each specific summer program activity. Therefore, we used New Haven's budgeted amount of \$3.25 million for each activity in Attachment A.

(2) the “supplement not supplant provision” of NCLB, (3) the “lacking challenging academic instruction,” and (4) the Title I eligibility of summer program sites.

OIG Response

We considered the State’s response to the finding, but our position remains the same. The State did not provide sufficient and relevant documentation to support its position that the audit methodology was flawed. In fact, the State’s comments and voluminous attachments had no relevance to the audit methodology and did not address the finding within the scope of the audit.

The State had concerns with the audit methodology, including the failure to consider and review the abundance of available documentation that New Haven officials had provided. However, the documentation that New Haven provided during the audit did not adequately or fully support the Title I program requirements. New Haven did not provide any documentation to support program compliance for 10 of 21 summer programs listed in Attachment A. The documentation for an eleventh program was inadequate because it did not address the program during the period audited.

The State contended that the audit did not consider the extensive official school district records of summer program expenditures maintained by New Haven, which carefully identified expenditures on a program-by-program basis. However, our review of all summer program transactions provided by the City of New Haven and New Haven disclosed that New Haven was unable to determine expenditures on a program-by-program basis although we requested this information. For example, New Haven’s Title I Programs Statement of Expenditure Report for School Year 2001-2002 listed expenditures by program. But, this report listed the summer program expenditures in totals only by object code, i.e. other personnel, equipment, and field trips. Despite our requests for expenditures by summer program activity, neither New Haven nor the State provided it.

An example of inadequate documentation concerned the Latino Youth program. During the audit, the New Haven Superintendent stated that the Latino Youth program was on the verge of financial collapse and that he provided it Title I funding to keep this program operating. He also stated that he had no documentation for this program. In the State’s response, the State provided an example of financial documentation for the Latino Youth program. This documentation consisted of a vendor’s invoice for \$10,000 for 70 students served, the City of New Haven’s payment, and an agreement between the New Haven Board of Education and Latino Youth Development. However, this documentation lacked specific pertinent details regarding the eligibility of the students, a listing of the students attending the schools, and the scope of services provided.

Another example of inadequate documentation concerned the Superintendent’s CMT Camp. In response to questions regarding school eligibility, the director of the program provided a list of students that attended this camp. This list included the student name, grade level, teacher name, activity, and school name. However, the school name was not

the school the student attended, but the summer program itself. By not listing the school, there was no way to determine if the students attended an eligible Title I school. The State's response did not provide any documentation for this example cited in the report.

The State's response states that “. . . the Draft erroneously relies on the amounts budgeted rather than the actual expenditures spent on the summer programs at issue.” However, New Haven did not provide documentation of actual Title I expenditures by program activity as requested during the audit. In fact, the Manager of Finance Administration stated that New Haven was not able to provide this level of detail for the scope of our audit at the time of our audit. Our review of all transactions associated with the summer and after school programs disclosed that it was not possible to determine what the program funds were actually spent on. New Haven's financial accounting system did not report expenditures by program; it only reported summary expenditures by account number. Since specific expenditures were not available for the summer program activities, we were forced to use budgeted amounts to illustrate the budgeted cost of specific summer program activities cited in the report. However, the total expenditures of \$3.78 million that we cite in our report is not a budget amount, but is the total amount of actual expenditures for the summer program recorded in New Haven's accounting system.

The State claimed that the audit incorrectly applied NCLB's "supplement not supplant" provision in the analysis of New Haven's summer programs funding. We agree with the State's comment that a portion of the Grades 3-6 Mandatory and Summer Studies programs were funded and mandated by the State. In essence, grades 3 and 5 of these programs were eligible for Title I funding. However, New Haven Title I funds were used for the entire grades 3-6 Mandatory and Summer Studies programs without excluding grades 4 and 6. The State did not provide evidence or support that New Haven actually expended its State appropriation. Since New Haven was unable to break out the expenditure for grades 4 and 6 from these grades 3 through 6 programs, we took exception to the entire amounts.

The State challenged the finding on ineligible schools by stating that the audit failed to take schoolwide flexibility into account. The State cited student enrollment as a determining factor. However, New Haven did not provide adequate student enrollment documentation to ensure that students attending five summer programs were eligible to participate in Title I programs. Without this documentation, it was not possible to determine Title I eligibility. In addition, these five summer programs were held at schools that did not meet Title I demographics requirements based on New Haven's Title I ranking for schools and allocation of funds.

The State took exception to the lack of documentation to support challenging academic instruction at 3 of 21 summer programs. The State provided new documentation for the New Haven Hot-Shot Camp (NHHSC) and Ikennas Kitchen, two of the three programs questioned in the report. The NHHSC documentation stated that its participants would spend fifty percent of their time on non-fiction reading (academic instruction) and the remaining fifty percent on basketball. During the audit, New Haven asserted that

NHHSC's program showed only one of six hours on academics and the remaining five hours on basketball. The Director stated that NHHSC was modified for school year 2004-2005 which is beyond the scope of our review. The State also submitted new documentation for a summer program called Ikennas Kitchen. However, this documentation was inconsistent with New Haven's summer program application for school year 2003-2004. This application listed daily sports activities including tennis, nature walks, biking, and golf. It is our position that these two programs clearly lacked the necessary documentation to support challenging academic instruction.

OTHER MATTERS

The City of New Haven issued duplicate payroll checks. We reviewed 413 payroll checks for personnel working at New Haven's summer basketball programs during the July 1, 2001, through June 30, 2004 period and found 54 (13 percent), had duplicate check numbers. This occurred because the City of New Haven's accounting system lacked an internal control to prevent the issuance of payroll checks with duplicate check numbers. Specifically, the same check numbers were issued for both electronic direct deposits and manually prepared checks. Consequently, the potential misuse of funds exists since duplicate check numbers are difficult to properly reconcile. Although we found no monetary loss, we brought this matter to the attention of the Supervisor for Payroll and Pensions for the City of New Haven.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether New Haven properly administered summer and after school programs funded Title I funds, in accordance with Federal laws and regulations for the July 1, 2001, through June 30, 2004 period.

To achieve the audit objective, we evaluated the procedures and practices used by the New Haven Board of Education to oversee summer and after school programs. We also reviewed data obtained from the City of New Haven's financial system and the Board of Education's Business Office. We interviewed officials from the offices of the Superintendent, Business Manager, Summer Program Coordinators, and Summer Program Directors. We also interviewed State Department of Education officials responsible for the oversight of New Haven. We examined OMB Circular A-133 Single Audit Reports for the years ended June 30, 2001, through June 30, 2004, and reviewed the work performed by the independent public accountant who prepared the Single Audit Reports.

To test New Haven's summer and after school program expenditures, we judgmentally selected 52 of 234 vendor transactions totaling \$371,794, of \$455,066 for the July 1, 2001, through June 30, 2004 period. This represented 82 percent of the total costs associated with these programs. We verified that all 413 checks paid to personnel associated with New Haven's two summer basketball programs had been endorsed by the payee. To determine the validity of other program payroll payments, we randomly selected 20 of 303 transactions associated with the after school program and 25 of 5,423 summer program transactions.

To ensure the accuracy and completeness of the data, we compared New Haven's detailed Title I after school and summer program expenditures for the July 1, 2001, through June 30, 2004 period, to expenditures reported to the State for this period. These records were in agreement.

We conducted fieldwork at the Board of Education offices in New Haven and at the State Department of Education, from December 8, 2004, through September 13, 2005.

We conducted the audit in accordance with generally accepted government auditing standards appropriate to the scope of the audit described above.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

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 Education Department official, who will consider them before taking final Departmental action on this audit:

Dr. Henry L. Johnson
Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
FB6, Room 3W315
400 Maryland Avenue, SW
Washington, DC 20202

It is the policy of the U. S. Department of Education 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 appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Daniel P. Schultz
Regional Inspector General for Audit

Attachment(s)

**Attachment A
Ineligible Title I Summer Programs**

Ineligible summer Programs	No Documentation to support Challenging Academic Instruction	Ineligible Schools	Supplanted Funds from Non-Federal Sources	Lack of Proper Documentation	Notes	Total Budgeted Costs-2001 Thru 2004
CT Shoot Out Basketball		X		X	3,4	\$124,752
Grades 3-6 Mandatory			X		2	\$1,580,981
Grades K-5 Science/Reading Acdmy		X			3	\$857,570
Early Childhood Mentoring				X	4	\$3,811
Farnam House				X	4	\$10,000
Ikennas Kitchen	X			X	1,4	\$45,979
Latino Youth				X	4	\$19,292
Neighborhood Place		X		X	3,4	\$25,000
Solar Youth Steward Program				X	4	\$15,000
Summer Studies			X	X	2,4	\$198,817
Summer Tutorial & Enrichment				X	4	\$27,000
Superintendent Exce. CMT Camp		X			3	\$212,451
West Rock Hot Shots	X				1	\$107,137
Varick Teen Life		X		X	3,4	\$21,383
Summer Band Camp	X			X	1,4	\$3,876
Total						\$3,253,049

Notes:

1. Little academic instruction was provided.
2. This is a State-funded program for grades four and six. Supplanting is the use of funds received from non-Federal sources for the education of pupils participating in programs assisted under Title I.
3. These summer programs were held at ineligible schools to receive Title I funds.
4. The New Haven Superintendent had inadequate supporting documentation for the Title I eligibility of these programs.

Attachment B
Auditee Response

February 27, 2006

Mr. Daniel P. Schultz
Regional Inspector General for Audit
Office of Inspector General
U.S. Department of Education
32 Old Slip, 26th Floor
Financial Square
New York, NY 10005

RE: Office of Inspector General Draft Audit Report—
Audit Control Number ED-OIG/A05-B0004

Dear Mr. Schultz:

Thank you for the opportunity to comment on the above referenced draft audit report. Because the subject of that report dealt with the operation of specific New Haven Board of Education educational programs, we sought the assistance of their administrative staff in responding to your proposed findings. I am enclosing a detailed response which was forwarded to us by New Haven school officials.

Our review of their response finds compelling assertions involving the failure to review all available documentation, erroneous reliance upon budgeted rather than actual expenditures, school-wide flexibility, eligibility of summer program sites and supplement versus supplant. For the record, the argument put forth by New Haven on the issue of supplement versus supplant is consistent with our interpretation of state law on the use of state funds for summer programs. Additionally, specific information about the educational merit of various programs should satisfy your concerns as to their educational content and eligibility for federal funding.

We are deeply concerned about the educational impact of any financial disallowance that might result from the recommendations in your final audit report. After discussion and review, our sense is that the New Haven Board of Education is in substantial compliance with the Title 1 requirements and the audit does not show any harm to any identifiable federal interest. It would indeed be a regrettable situation if New Haven schoolchildren were denied federal funding for these important programs.

We strongly request your reconsideration of the audit findings and recommendations.

If you would like to discuss these matters or if we can be of further assistance, please feel free to contact me.

Sincerely,

/s/

Mark. A. Stapleton, Director
Division of Legal and Governmental Affairs

cc: Betty J. Sternberg, Commissioner
Brian Mahoney, CFO
Raymond Inzero, Chief of Internal Audit

Enclosure

**New Haven Public Schools
Response to Draft Audit Report: ED-OIG/A02-F0005**

Submitted to:
Daniel P. Schultz
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
32 Old Slip, 26th Floor
Financial Square
New York, NY 10005

The Draft Audit Report ED-OIG/A02 F0005 (“Draft”), issued January 30, 2006, erroneously concludes that the New Haven School District (properly, the New Haven Public Schools, “NHPS”) did not properly administer funds expended for summer programs over the 2001-2002, 2002-2003, and 2003-2004 fiscal years.¹ Additionally, the Draft makes four recommendations in response to this erroneous finding. By this response, NHPS respectfully requests that the finding and recommendations stated in the Draft be reconsidered and that the recommendations on recovery of funds be withdrawn as unsupported

NHPS respectfully submits that the audit methodology used was seriously flawed. First and foremost, it appears the auditors failed to review the voluminous documentation and accounting records supporting the summer programs at issue. Notwithstanding the erroneous statement in the Draft that there was no documentation available, there is an abundance—literally binders—of such documentation available. Second, the Draft erroneously relies on the amounts budgeted rather than the actual expenditures spent on the summer programs at issue. The correction for this flaw alone reduces the claim by over \$635,000.² Third, the audit, although recognizing that “All of New Haven’s eligible Title I schools operated schoolwide programs during our audit period,” fails to take into account any sense of schoolwide flexibility.

Beyond these major flaws in audit methodology, which by their independent merit seriously call into question any accuracy of the audit finding, each of the four rationales detailed as supportive of the audit finding are seriously flawed as well. From misunderstandings of the legal requirements of “supplement not supplant” to a

¹ Actually, the Draft states, “we found that New Haven did not properly administer the \$3.78 million of Title I funds it expended.” As will be discussed below, NHPS received \$3.78 million of Title I funds for all summer programs, *budgeted* \$3.25 million of Title I funds for the summer programs at issue over the period at issue, but *expended only* \$2.62 million of Title I funds for these programs during this period.

² The budgeted amount the Draft relied upon for the programs at issue was \$3,253,049 while the actual amount expended on those programs over the period at issue was only \$2,617,575.

misconception of what constitutes an eligible site for a summer program, the Draft consistently misapplies applicable legal principles as well as established United States Department of Education (“ED”) policy. This response first addresses the overarching flaws in audit methodology in this case and then addresses the inaccuracy of each of the rationales supplied for the Draft’s finding.

I. OVERARCHING FLAWS IN AUDIT METHODOLOGY

There are three major overarching flaws in audit methodology. These flaws by themselves, before even considering the errors in legal rationale behind the finding, seriously call into question the accuracy of the finding.

A. THE AUDITORS FAILED TO CONSIDER AN ABUNDANCE OF AVAILABLE DOCUMENTATION, BOTH FINANCIAL AND PROGRAMMATIC, REGARDING THE NHPS SUMMER PROGRAMS

There is an abundance of documentation regarding the NHPS summer programs, both programmatic and financial, that the auditors clearly failed to review. The Draft states that the City of New Haven’s accounting system was unable to identify expenditures for each specific summer program activity. Draft, p. 6. Although the City’s system may only track the total funds the City issued to NHPS for its summer programs as a whole, NHPS maintains extensive official school district records of its summer program expenditures which carefully identify expenditures on a program by program basis. As an example of the financial documentation available through NHPS, we are providing financial documents relating to one of the challenged summer programs, Latino Youth. See Attachment A.³ In addition to the financial documentation that the Draft fails to consider, an abundance of programmatic documentation regarding each of the summer programs is available through NHPS as well.⁴ The Draft totally misquotes district officials, including the NHPS superintendent, in regards to statements about summer program documentation. The auditors clearly must have misunderstood what NHPS representatives may have said regarding this issue. Again, why the auditors failed to seek and review this documentation is unclear and calls into question the methodology employed to conduct this audit and to draft the finding and recommendations.

Simply correcting this flaw in audit methodology and considering NHPS’ financial expenditure documentation for its summer programs immediately drops the finding amount from \$3.78M to less than \$2.62M.⁵

³ Attachment A includes financial documents relating to a contract with the service provider for this program. Included in Attachment A are the purchase order, invoice, contract, the related general journal voucher, budget report, and general journal entry of proof. This is the financial document NHPS maintains for all of its summer program expenses.

⁴ Programmatic documentation is discussed in more detail below in Section II.D.

⁵ The Draft takes the \$3.78 million figure comes from the amount the official accounting system for New Haven disbursed to NHPS as a whole—for all summer programs, not exclusively the ones questioned in the Draft. Draft, p. 6. The Draft cites \$3.23 million as the total amount NHPS budgeted for the summer

B. THE DRAFT ERRONEOUSLY RELIES ON BUDGETED FIGURES RATHER THAN ACTUAL EXPENDITURES

A second major flaw in the methodology employed to conduct this audit is the failure to use expended as opposed to budgeted figures in determining liability per program. Again, we suspect that the auditors relied on city level documentation which may only have supplied the auditors with the total funds expended to NHPS for its summer programs. However, NHPS maintains reliable dependable official records of its expenditures per program. Why this information was not gathered and employed in considering the finding and recommendations is unclear and reflects a major flaw in the audit.

The Draft itself recognizes that expenditures are the appropriate figures to consider in issuing a finding. For example, in addition to mistakenly criticizing NHPS for failing to properly monitor Title I expenditures, the Draft goes on to directly explain that the auditors used New Haven's budgeted amounts only because they could not identify expenditures for each specific summer program activity. Draft, fn 4, p. 6. Again, why the auditors did not seek this information from NHPS, who had the documentation readily available, is unclear. In simply correcting this error, the total amounts spent on the programs at issue drops from \$3,253,049 to \$2,617,575.⁶

C. THE DRAFT FAILS TO TAKE SCHOOLWIDE FLEXIBILITY INTO ACCOUNT

As discussed in more relevant detail below, the Draft wholly fails to take into account the flexibility offered to schoolwide schools and their programs in disallowing NHPS summer programs.⁷ In addition to the obvious errors in assessing liability that this failure of legal understanding creates, this highlights greater concerns of the audit methodology as a whole. The failure to take into account such an important and highly encouraged flexibility program in conducting an audit of a district where even the Draft recognizes all Title I schools operated schoolwide programs is highly suspect.

In light of the recent Final Audit Report titled *The U.S. Department of Education's Activities Relating to Consolidating Funds in Schoolwide Programs*

programs that the Draft challenges. As discussed in further detail below, the proper numbers to consider are expenditures, not budgeted dollars. Thus, once all financial documentation alone is considered, the figure drops from \$3.78 million to \$2,617,575, the amount NHPS actually spent on the questioned programs.

⁶ Attachment B charts the expended amounts next to the budgeted costs as outlined on page 10 of the Draft. The expended amounts listed therein come from Attachment C, a chart which lists expended amounts for all NHPS summer programs during FY 2002, 2003, and 2004. This chart includes all summer programs, not just the ones questioned in the Draft. One additional note, considering expended as opposed to budgeted figures takes at least one program out of the discussion and finding completely. Specifically, although NHPS budgeted \$3,876 for Summer Band Camp, in the end, NHPS did not spend one penny of federal funds on this summer program.

⁷ This issue as it specifically applies to the finding is detailed in Section II. B. 3.

Provisions, it is especially surprising that the Draft seems to disregard schoolwide flexibility. Final Audit Report ED-OIG/A07F0014, issued Dec. 29, 2005. Therein, one finding criticized ED for not encouraging schools and LEAs to exercise the schoolwide flexibility available to them. Ironically, here we have an LEA that was exercising this flexibility, yet, beyond failing to encourage the practice, the Draft appears to wholly fail to take this flexibility into account.

II. EACH OF THE FOUR RATIONALES SUPPLIED TO SUPPORT THE DRAFT'S FINDING ARE INACCURATE AND MUST BE REJECTED

As stated above, in addition to the major flaws in audit methodology which invalidate the finding, all four of the rationales stated in support of the finding are severely flawed as well. The response now proceeds to explain the fatal errors to each of the four stated rationales for the finding in the order they were addressed in the Draft: (A) the Supplement not Supplant Requirement; (B) the Federal Challenge of Summer Program Curriculum; (C) the Eligibility of Summer Program Sites; and, (D) Summer Program Documentation.

A. SUPPLEMENT NOT SUPPLANT

The Draft incorrectly applies NCLB's "supplement not supplant" provision in its analysis of New Haven's funding of its summer programs. The Draft mistakenly reasons that any use of ESEA funds expended on a local summer program that is required by a State automatically constitutes a supplanting violation. This is absolutely incorrect. The Draft misapplied both the law and the facts in using this rationale to reach its finding.

The summer programs at issue under this rationale are the Grades 3-6 Mandatory Summer Program ("Grades 3-6") and the Summer Studies program.⁸ As stated in the Draft, the Summer Studies program was for the salaries of the Grades 3-6 program paraprofessionals. The Draft, however, misunderstands the mandatory nature of Grades 3-6 summer program. The Draft seems to assume the exact summer program, Grades 3-6, that NHPS ran was a wholly mandated and wholly state and locally funded "as is" summer program. This is far from the true nature of the program.

Only a portion of NHPS's Grades 3-6 program is funded and mandated by the Connecticut State Department of Education ("State"). Connecticut State law in relevant part provides:

Each local...board of education for a priority school district...shall, *within available appropriations*, require the schools under its jurisdiction to provide additional instruction...to each student who fails to meet the state-wide standard for remedial assistance on the reading component of the *fourth grade* mastery examination...and...to each student who fails to meet the state-wide standard for

⁸ The Draft lists the budgeted amounts for these two programs as totaling \$1,779,798. The amount actually expended for these two programs was \$1,501,014.

remedial assistance on the *sixth grade* mastery examination....The instruction shall be designed to address the student's deficiencies and *may include* tutoring, an after school or school vacation program, or a weekend school program that is funded in accordance with section 10-265m.

Connecticut Statute, Title 10, Chapter 172, Section 10-265l (emphasis added).⁹ The NHPS Grades 3-6 program goes well beyond the statutory requirement and well beyond the funding provided.

First, any mandate on NHPS as a priority school to provide additional instruction applies only to students failing to meet standards for remedial assistance on the fourth and sixth grade mastery examinations. The NHPS Program goes beyond this and provides additional instruction to not only fourth and sixth graders but also third and fifth graders as well. The State does not mandate summer school for this group of students whatsoever.

Second, and most importantly, the mandate of this law extends only to available funding, requiring NHPS to offer additional instruction only "within available appropriations." Pursuant to Section 10-265m, the State appropriates grants for its "priority schools" to offer this additional instruction as required under Section 10-265l. Further, priority schools are to use these grants to provide this additional instruction, which may include not only summer programs but also academic term weekend programs such as Saturday school. Most significantly, this mandate only extends to the extent of the state appropriation. Anything provided by New Haven beyond the appropriation is simply not mandated by law and is therefore not supplanting.

As a priority school, NHPS uses its entire Section 10-265m appropriation for its Section 10-265l programs. In addition to providing these programs within its available state appropriation, and thus fulfilling the state requirement, NHPS further supplements, *not* supplants, its Grades 3-6 program with federal Title I funds. There is simply no supplanting violation. The Draft seems to assume that NHPS was using federal funds, instead of state funds, to run a mandatory state program. This clearly is not the case. NHPS used its state appropriation to "within available appropriations...provide additional instruction." NHPS then went further than required by state law, using federal funds to supplement the state-required and state supported program. There was no requirement to do this and certainly no funding to do it. Accordingly, there simply is no supplanting violation.

While this explanation of the summer program state requirement and of NHPS' funding of and exceeding the state requirement should suffice to demonstrate no supplanting violation exists, two policy letters issued by the United States Department of Education further support the position that NHPS did not violate the supplement not supplant provision. First, in responding to an inquiry regarding "ways Title I can supplement State- and/or locally-mandated summer school programs," ED represented:

⁹ For your reference, we have included a copy of this statute as Attachment D.

...if the school [schoolwide program school] receives funds from State and local sources to conduct the mandated summer school program, the school can use Title I funds along with its State and local resources and other Federal education program funds to extend the school year for all of its students.

Policy Letter dated March 26, 1998.¹⁰ There is no general prohibition on using federal funds to supplement even a state-mandated summer program. Rather, ED clarified a school may use federal education funds, including Title I dollars, to supplement state mandated summer programs.

A second policy letter further supports this understanding of supplement not supplant as it applies to tying federal funds to state mandated summer programs. Therein, ED represented that where a district provides a base level of funding for a summer program for students at risk of failing, that district may add a layer of Title I funding to enhance the program. Policy Letter dated August 8, 2000.¹¹ Just as that district explained, NHPS also believes it “can provide much more service...if we can enhance the summer programs resources with Title I funds.” NHPS was able to do just that by using federal funds to supplement the summer programs, just as the district seeking a response via that policy letter was told it was permitted to do.

Clearly, New Haven is properly using Title I funds to supplement the summer programs at issue and does not even approach a violation of NCLB’s “supplement not supplant” provision. Accordingly, the finding that funds expended for the Grades 3-6 Mandatory Program and the Summer Studies Program should be removed in its entirety from any final audit report.

B. FEDERAL CHALLENGE OF SUMMER PROGRAM CURRICULUM

The second rationale the Draft puts forth to suggest funds were not properly administered criticizes three of New Haven’s summer programs for “lacking challenging academic instruction.”¹² Not only is this assertion factually incorrect but also it involves the Draft in impermissible reviews of curriculum decisions by an LEA and it is inconsistent with schoolwide flexibility. Not only is the federal government prohibited from dictating curriculum to states and localities, but also schoolwide flexibility permits consolidated funds be used to support the intents and purposes of any programs consolidated under the entire Act. Because the summer programs support the purposes of not only Title I but also Title IV, the use of consolidated schoolwide funds is absolutely appropriate.¹³

¹⁰ For your reference, a copy of this policy letter is attached as Attachment E.

¹¹ For your reference, a copy of this policy letter is attached as Attachment F.

¹² The three programs at issue under this rationale are: Ikeanna’s Kitchen, West Rock Hot Shots, and Summer Band Camp. As will be discussed in more detail, NHPS did not expend any Title I funds on the Summer Band Camp for the years at issue.

¹³ Even if this rationale were to be accepted in the Final Draft Report, the amount expended on these three programs is significantly less than the budgeted figures upon which the Draft relies. Using proper audit methodology of looking at expenditures and not budgeted amounts, the finding for these three programs alone drops from \$155,992 to \$128,798.

1. These Programs Include Academic Instruction

First, the proposition that these three programs do not include challenging academic instruction is simply incorrect and unfounded. The academic components of each challenged program are explained below.

a. Ikeanna's Kitchen

Ikeanna's Kitchen, the nickname for Ikeanna's Kiducation Camp, ("IK") is a summer program for students ages 5-13. Its program description describes IK's philosophy: that academic, social, and physical development should continue throughout the year. The IK program speaks to all three of these needs. Again, as clearly stated in its program description,

Students are grouped flexibly according to age and appropriate levels of instruction. Each group is challenged with developmentally appropriate literacy challenges. Activities include book talks, phonetic exercises and discussions based on reading comprehension questions stemming from the research based metacognitive strategies....Campers journal, write in response to field trips, compose narrative, expository and persuasive essays, write original poetry inspired by summer scenery, nature walks/observations and science activities...on a daily basis the students participate in shared reading, guided reading and read alouds. Activities that foster oral language, vocabulary and phonetic awareness are integrated throughout the day.

See Attachment G, IK Program Description. IK clearly includes challenging academic curriculum.

As disclosed in the summer program report and in synch with the program description, in addition to the rigorous academic routine described above, the program also included regularly scheduled events including outdoor activities, music, and trips to beaches and state parks. Additionally, a daily activity included student participants assisting in preparing the daily hot lunch, hence the nickname of the program, Ikeanna's Kitchen.

b. West Rock Hot Shots

The West Rock Hot Shots ("WRHS") Summer Program combines a summer basketball camp with an academically intense summer school curriculum, aptly named the Time Out Reading Program. Students are divided into groups that rotate equally between the basketball court and the classroom. The Mission and Purpose of the program is as follows:

The program is designed "to provide a safe and fun environment for students of the New Haven Public School System who are interested in learning the game of

basketball. Students who attend the camp are required to participate in academic enrichment activities that enhance reading and writing skills.”

See Attachment H, WRHS Program Description. Again, one component of the WRHS summer program is the Time-Out Reading Program. Participants are divided into teams of 10 and meet for 2.5 hours per day (50% of the camp day) to read non-fiction leveled text and answer open-ended questions that are aligned with the 4th Generation Connecticut Mastery Test. One-on-one assistance is available for participants who require individual attention.

Just as with Ikeanna's Kitchen and the rest of NHPS' summer programs, WRHS includes challenging academic curriculum.

c. Summer Band Camp

NHPS budgeted funds but expended *no* Title I funding on Summer Band Camp during the years at issue. As such, any finding based on the use of federal funds expended for this program must be disregarded.¹⁴ This reflects the problems with the flawed audit methodology of relying on budgeted rather than actual figures.

2. Prohibition on ED Determining Curriculum

Finally, the US ED is explicitly prohibited from determining what constitutes “challenging academic instruction.”¹⁵ Both Title I and the General Education Provisions Act (GEPA) prohibit the federal government from directing such control over a state or local educational agency's decisions regarding instructional content and curriculum:

Sec. 1905. Prohibition against federal mandates, direction, or control.

Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

Title I, § 1905.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION. SEC. 438. No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system...

¹⁴ The Draft uses the budgeted figure of \$3,876. This figure must be removed from the finding in whole.

¹⁵ Furthermore, and perhaps more importantly, why the auditors decided to use “challenging academic instruction” as part of its criteria is puzzling as this is not a defined requirement.

GEPA § 438.

As demonstrated above, two questioned programs that NHPS funded with Title I dollars included challenging academic instruction. For federal auditors to judge otherwise in spite of such evidence of academic content in the programs appears to be in direct violation of both Title I and GEPA. Accordingly, this rationale must be eliminated as supportive of the finding.

3. Programs Also Meet Goals of the Safe and Drug-Free Schools and Communities Act

Regardless of the academic content of these programs, NHPS is authorized to make these expenditures in a schoolwide school under schoolwide flexibility. "All of New Haven's eligible Title I schools operated schoolwide programs during our audit period." Draft, p. 1. The basic premise of "schoolwide" system under Title I is that schools may consolidate all uses and funds from different Federal programs and are not required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds "as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program."

New Haven's summer programs support the purposes not only of Title I but also of Title 4. Specifically, the purposes of the Title 4 Part A program, Safe and Drug-Free Schools and Communities ("SDFSCA"), are served by the summer programs. The purpose of Title 4 Part A is:

...to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities; and that are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement...

§ 4002. All NHPS summer programs support this purpose. The summer programs provide a shelter during the summer for students that is free from drugs and alcohol and encourages academic achievement.

The entire NHPS system shares the goals and purposes of the SDFSCA in its mission and goals. The NHPS Social Development Department provides a comprehensive instructional and support program designed to meet the development needs of students and their families. According to their mission statement:

This program strives to prevent destructive behaviors such as substance abuse, violence, school dropout and risky sexual activity. It promotes positive, and responsible attitudes and behaviors through classroom instruction, school and

community activities, and collaborative planning and decision-making with parents, teachers, school administrators, and community leaders.

NHPS Social Development Department Mission Statement, Attachment I. The Social Development Department recognizes the link between test scores and other factors such as social skills, future hopes, affiliation with delinquent peers, school safety, emotional well being, witness of violence, and friends as models for deviance. See excerpts from power point presentation, Attachment J. Social Development Department materials also recognize student developmental pathways to include cognitive, social, ethical, psychological, language, and physical. See Developmental Pathways Handout, Attachment K. The NHPS summer programs all support this mission and are a means to serve the purposes of the SDFSCA.

Exercising schoolwide flexibility permits NHPS schools to consolidate its federal funding so long as it maintains records that demonstrate that its schoolwide programs address the intent and purposes of each of the consolidated Federal programs. NHPS summer programs address the intent and purposes of not only Title I but also Title IV Part A. Taking schoolwide flexibility into account, NHPS clearly may use federal education funds to support its summer programs.

C. ELIGIBILITY OF SUMMER PROGRAM SITES

The third rationale supplied for the finding, which regards the eligibility of schools, is also misplaced and reflects further misunderstanding of Title I eligibility. Under the heading “Ineligible Schools,” the Draft states, “New Haven held five of its summer programs at ineligible schools.”¹⁶ Draft, p. 5. The Draft references Section 1113 of the ESEA and literally but mistakenly interprets that provision to limit where services may be provided to within the geographic bounds of a school attendance area—specifically at Title I designated schools. Title I eligibility *generally* is based on the idea of poverty level of an area and affects student populations served, not necessarily the physical location where services are provided to those populations.

Many practical considerations must be taken into account in providing a physical location for summer programs, including items such as air conditioning and cost of opening each facility. Practicality and efficiency dictate that Title I eligible programs for Title I eligible student populations need not be provided solely at Title I designated schools. Countless examples demonstrate this principle. Some examples include: eligible schools not located within an eligible school attendance area, preschool services, equitable services to private school students, supplemental educational services, and school-inside-a-school transfer option flexibility.

¹⁶ In total, the Draft’s finding regarding these five programs (CT Shoot Out Basketball, Grades K-5 Science/Reading Academy, Neighborhood Place, Superintendent Exec. CMT Camp, and Varick Teen Life) totaled \$ 1,241,156; but, the actual amount spent on these programs was only \$ 909,167.

First, Section 1113(b)(1)(B) of the ESEA permits Title I funds to be used at certain schools that are “not in an eligible school attendance area.” The determining factor in designating such schools is based on student enrollment, not geographic area demographics. The Draft’s interpretation that Title I services can never be provided at locations not physically located within an eligible school attendance area is incorrect and in direct conflict with this provision.

Second, ED issued guidance entitled *Serving Preschool Children under Title I, Non-Regulatory Guidance* on March 4, 2004. Two questions and accompanying answers in that guidance are especially relevant to this issue:

D-3 Where may TI preschool services be provided?

Preschool services may be provided at any location that other Title I services may be provided, including public school buildings, public libraries, community centers, privately owned facilities (including facilities owned by faith-based organizations (FBOs)), the child’s home and other appropriate settings.

D-4 If appropriate facilities are not available to house a preschool program in the district or a school, how might preschool services be provided?

If appropriate district or school facilities are not available for preschool services, the district and school should consider working with children in existing childcare programs such as.... In any case, the setting should be of sufficient quality to facilitate effective program implementation.

2004 Preschool Guidance, 17. Title I services may be provided at many different locations, not solely at Title I designated schools. Moreover, as the answer to question D-4 highlights, making sure the setting is of sufficient quality to facilitate effective program implementation is key.

Similarly, summer school programs need not be physically located inside the building of a Title I designated school. Clearly, concerns NHPS took into account, such as air conditioning during the summer, in deciding where to host its summer programs impact the quality of location and can impact the quality of effective program implementation. The preschool guidance wholly supports the NHPS decision to choose locations based on their ability to facilitate effective program implementation.

Equitable services to children attending private school provides yet another example that the physical location where services are provided is not the relevant question to determining eligibility. See ESEA Section 1113(b)(2). An LEA may use the funds reserved for private school children to: “Provide equitable services to eligible children in each private school with the funds allocated for the children who reside in participating public school attendance areas and who attend that private school.” Title I Services to Eligible Private School Children, *Non-Regulatory Guidance*, October 17, 2003. As the statute makes clear, Title I funding for these students is determined

“without regard to whether the public school attendance area in which such children reside” is located within an eligible school attendance area. ESEA Section 1113 (b)(2). Students eligible to receive Title I services may receive the benefit of those services at their private school, regardless of whether the private school is physically located within the home school’s school attendance area—they need not be shuttled over to the physical building of a Title I designated school in order to receive those services. Similarly, there is no requirement that Title I funded summer programs be held in the physical building of a Title I designated school.

Guidance regarding supplemental educational services further supports NHPS’ position that summer programs need not be held within the physical building of a Title I designated school.¹⁷ Supplemental educational services (“SES”) are sometimes, but not always, provided in the physical building of a Title I eligible school. Like the other examples, the physical “where” the services are being provided or held is irrelevant to the issue of eligibility.

Finally, the school within a school transfer option also demonstrates that physical location is not the determining factor. ED issued Public School Choice non-regulatory guidance on February 6, 2004. Therein, ED addressed the question of what options are available to an LEA that does not have the physical capacity to offer transfers to all eligible students. The guidance explains that in such a situation, “school officials will need to employ creativity and ingenuity in creating capacity to receive additional students.” P. 15. One such creative suggestion is “creating new, distinct schools, with separate faculty, within the physical sites of schools identified for improvement.” Id.

If the position taken in the Draft were correct, there is no way that this school within a school transfer option could be possible. This example from the Public School Choice guidance further demonstrates that the physical site of a school does not define

¹⁷ The language of the guidance supports this position:

C-24. Some after-school programs are housed in public school buildings. May such programs be supplemental educational service providers if the school in which they are housed has been identified as needing improvement, or is in corrective action or restructuring?

Programs that operate independently from the school and are not a part of the school’s regular program may become supplemental educational service providers if they meet the SEA’s criteria. *The status of the school does not affect the eligibility of an independent entity housed in the school.*

...

G-15. How may an LEA fairly select providers to work in school buildings if there is not enough room in the schools for all providers to run their programs on-site?

...The Department...encourages LEAs to allow providers in the school building, either free of charge or for a reasonable fee....However...*it may not be possible to have all providers use school buildings.*

Supplemental Educational Services, Non-Regulatory Guidance, June 13, 2005, pp 24, 34 (emphasis added). Similar to SES, summer programs are independent programs apart from standard academic year school day. Summer programs, just as SES, need not be provided within the school building.

the school or a school population. If two separate schools can exist within one physical site, clearly the address of a building is not the determinative question of whether or not federally funded education services may be provided at that site.

Countless other examples, such as funding for professional development, parent involvement, and the ability to take field trips beyond the geographic bounds of a school attendance area, contradict the Draft's strict interpretation of where Title I services may be provided. As all of these examples demonstrate, where the students physically receive the benefit of Title I dollars is not the relevant question. Accordingly, this rationale must be disregarded as supportive of the finding.¹⁸

D. SUMMER PROGRAM DOCUMENTATION

The fourth and final reason stated in the Draft to support the finding, that NHPS lacked proper documentation regarding its summer programs is also incorrect. NHPS has binders of information regarding its summer school programs. Clearly, the auditors clearly must not have reviewed this information. The binders include information such as advertisement materials, attendance records, and program reports for each summer program. Perhaps auditors failed to ask for these materials or clearly explain what documentation they needed from NHPS staff, but the Draft's suggestion that such proper documentation does not exist is wholly incorrect. In light of the auditors inability to locate existing accounting records, reliability of such statements from NHPS staff and administrators is questionable at best.

For example, for Ikeanna's Kitchen, a summer program discussed in great detail above, NHPS has an abundance of documentation regarding this program. Available documentation regarding the Ikeanna's Kitchen summer program includes: a 3-page program description, seven pages of handouts and activity plans, a summer program report, and attendance records. What more the auditors could possibly expect or ask for beyond this is unclear. At any rate, as discussed an the beginning of this response, the auditors' failure to review such documentation is a major flaw in their audit methodology and calls into question the quality and validity of the Draft Audit Report.

III. CONCLUSION

In closing, NHPS respectfully disagrees in whole with the finding and all four of the recommendations issued in the Draft and requests that they be reconsidered, revised, and that the recommendations for repayment be withdrawn before the issuance of a final audit report. From the serious flaws in audit methodology which lead to obvious errors in the Draft and bring question to the management of the audit as a whole to the errors and

¹⁸ The Draft cites this rationale in its finding as it relates to five programs: CT Shoot Out Basketball, Grades K-5 Science/Reading Academy, Neighborhood Place, Superintendent Exce. CMT Camp, and Varick Teen Life. The total finding amount the Draft lists for these programs (the budgeted amounts) is \$1,241,156. Because this rationale should be disregarded, Connecticut urges this amount be eliminated from the finding.

misunderstandings of the law reflected in the four rationales put forth to support the finding, it is clear that the finding and recommendations should be reviewed and withdrawn.