

CALIFORNIA DEPARTMENT OF EDUCATION

The Extensive Number and Breadth of Categorical Programs Challenges the State's Ability to Reform and Oversee Them

REPORT NUMBER 2003-107, NOVEMBER 2003

California Department of Education response as of November 2004

Audit Highlights . . .

Our review of the State's process for identifying, assessing, and overseeing education-related categorical programs concludes that:

- The California Department of Education (CDE) did not take sufficient steps to implement a pilot project aimed at reforming categorical programs.*
 - CDE's allocation of categorical program funding needs improvement. Specifically, for three of the 12 categorical programs reviewed, CDE may not have accurately calculated allocation amounts in accordance with state law.*
 - CDE has yet to implement fully the Bureau of State Audits' previous recommendations aimed at strengthening its oversight methods.*
 - For a few categorical programs, such as the Lottery Education Fund program, CDE does nothing to review recipient's compliance with applicable requirements.*
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The Joint Legislative Audit Committee directed the Bureau of State Audits (bureau) to review the State's process for identifying, assessing, and overseeing categorical programs. Our report concluded that the extensive number and breadth of categorical programs challenges the State's ability to reform and oversee them. For purposes of our audit, we defined "categorical funding" broadly so that we could identify allocations made by the California Department of Education (CDE) and the State Controller's Office (SCO) for programs providing funding over and above the basic funding provided to local education agencies (LEAs), typically referred to as revenue limit funding. Categorical funding is far-reaching. For fiscal year 2001–02, CDE and the SCO disbursed roughly \$17 billion to various recipients for 113 categorical programs. In addition, for five of these categorical programs, the State delayed CDE's authority to allocate funding totaling \$867 million until fiscal year 2002–03. We reported the following issues:

Finding #1: CDE could not demonstrate sufficient efforts to implement a pilot project giving flexibility to categorical program funding.

Chapter 369, Statutes of 2000, enacted in September 2000, required CDE to establish the Pilot Project for Categorical Education Program Flexibility (pilot project). Participating school districts would have flexibility in spending categorical funds among 24 programs within three clusters: (1) school improvement and staff development, (2) alternative and compensatory education, and (3) school district improvement. Only five school districts actually applied to participate in the pilot. However, CDE did not take sufficient steps to fully implement the project, failing to follow recommendations of the

project's advisory group and of state law. Having abandoned the pilot project, the State has lost valuable information to guide its reform of categorical programming.

To implement the pilot project as state law requires, we recommended that CDE provide direction to those school districts currently participating in the pilot project on how to capture and report information necessary to determine their pupils' academic progress. We also recommended that CDE report to the governor and the Legislature on the pilot project's status. Finally, we recommended that CDE survey nonparticipating school districts to assess their level of interest in the pilot project. If the survey results indicate a high level of interest, CDE should distribute its streamlined application packet to school districts. However, if the survey results indicate a low level of interest, CDE should consider seeking legislation to eliminate the provisions of Chapter 369, Statutes of 2000.

CDE Action: Partial corrective action taken.

CDE stated that it sent a survey in December 2003 and subsequently received information from all five participating school districts summarizing their pilot project activities, experiences, and recommendations. CDE further stated that it will compile Academic Performance Index and, if appropriate, Adequate Yearly Progress data for these school districts. Additionally, CDE stated that in August 2004, it mailed surveys to 70 nonparticipating school districts that were broadly representative of California districts. According to CDE, as of November 8, 2004, 24 districts had responded, with 11 indicating that they would be likely to apply to participate in the program. CDE also stated that it is currently working on an implementation plan for Assembly Bill 825 (Chapter 871, Statutes of 2004), which consolidates 22 education categorical funding programs into six block grants effective fiscal year 2005–06. CDE stated that in light of this new law, further examination is in order about the need to continue the pilot project. CDE planned to report the results of its analyses to the governor and Legislature in the final pilot project evaluation due February 2005.

Finding #2: The State can learn from the federal government’s previous attempts to implement block grants.

The U.S. Congress has demonstrated a strong interest in consolidating narrowly defined categorical grant programs for specific purposes into block grants for broader purposes. In the Omnibus Budget Reconciliation Act of 1981, Congress created nine block grants from about 50 of the 534 categorical programs in effect at that time. When Congress requested a report on federal block grant programs, the U.S. General Accounting Office (GAO) identified lessons learned from implementing federal block grant programs—lessons the State should consider in any categorical reform efforts it undertakes.

Across government services, the GAO has recommended a shift in focus of federal management and accountability toward program results and outcomes, with less emphasis on inputs and rigid adherence to rules. This focus on outcomes is particularly appropriate for block grants, given their emphasis on providing states the flexibility to determine the specific problems they want to address and the strategies they plan to employ.

The GAO also suggested that funding allocations based on formulas that target funds most effectively consider the following three variables: (1) state or local need, (2) differences among states in the costs of providing services, and (3) state or local ability to contribute to program costs. To the extent possible, equitable allocation formulas should rely on current and accurate data that measure need and ability to contribute.

We recommended that when the Legislature considers future reform proposals calling for the consolidation of categorical programs into block grants, it should ensure that proposals contain: accountability provisions that include a focus toward program results and outcomes; and allocation methods that reflect the recipient’s need, ability to contribute to program costs, and cost of providing services.

Legislative Action: Partial legislation passed.

In September 2004, the Legislature enacted Chapter 871, Statutes of 2004, which addressed our recommendations related to accountability provisions that include a focus toward program results and outcomes. This law, which established six block grants to fund 22 existing categorical programs, demonstrates the Legislature’s intent to, among other things, refocus attention on the effect that the

expenditure of categorical program funds has on pupil learning rather than on state spending and compliance with operational rules for categorical programs. Further, the law requires—subject to an appropriation in the annual Budget Act—the Legislative Analyst’s Office to report and make recommendations by January 1, 2007, on the effectiveness and distribution effects of the law on pupil achievement and recommendations on the continuation or elimination of categorical education programs whose funding is not part of the block grants established by the law. However, we are unaware of any specific changes made to the allocation methods for each categorical program that reflect the recipient’s need, ability to contribute to program costs, and cost of providing services.

Finding #3: Efforts to reform categorical programs should also consider the impact of constitutional and legal requirements.

Our legal counsel observes that federal law, federal and state constitutional principles, and court decisions may affect certain categorical programs. Thus, any decision to create block grants must consider any legal restraints on consolidating programs. For example, the State receives federal money under numerous federal programs. Federal law generally restricts states to using those funds for the purposes of the federal programs; and under some federal programs, each state must provide matching funds as a condition of receiving federal money. Consequently, reform efforts in California should carefully consider whether categorical programs involving federal funds are appropriate candidates for consolidation into block grants and whether moving state funds that support those federal programs into block grants would affect the State’s eligibility for federal funds.

Reformers should also consider the impact of state constitutional principles on proposed block grants. The two landmark decisions of *Serrano v. Priest* required the State to remedy disparities in per-pupil spending between school districts but excluded spending on categorical programs for special needs from the requirement that funding be roughly equal across districts. In *Butt v. State of California*, the California Supreme Court held that the California Constitution makes public education a uniquely fundamental concern of the State and prohibits the maintenance and operation of the public school system in a way that denies basic educational equality to students of particular districts. Further,

the court held that the State bears the ultimate responsibility to ensure that the public school system provides basic equality of educational opportunity. Therefore, any reform efforts should include mechanisms by which the State can ensure that block grants are distributed, administered, and overseen in a manner that fulfills this constitutional obligation.

Moreover, funding for categorical programs created by an initiative measure approved by the voters, such as the California Lottery Act of 1984, may be used only for the purposes that voters approved. For example, the California Lottery Act limits the use of funds to the education of students and expressly prohibits lottery funds from being spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose. Under the California Constitution, the voters must approve any changes to the purposes for which those funds may be spent. Thus, if money from the Lottery Education Fund is consolidated into block grants, either the State must continue to spend it for the purposes specified in the act or reformers must obtain the voters' approval to expand or change those purposes.

In other instances, court decisions affect specific categorical programs. For example, the California Supreme Court, in *Crawford v. Board of Education*, held that school boards have an obligation under the California Constitution to take reasonably feasible steps, in addition to desegregation obligations under federal law, to alleviate racial segregation in public schools. Thus, school districts will be required to continue to fund that constitutional obligation from some revenue source.

We recommended that when the Legislature considers future reform proposals calling for the consolidation of categorical programs into block grants, it should determine whether categorical programs involving federal programs are appropriate candidates for consolidation. Further, the Legislature should consider whether the reform proposal (1) is consistent with any legal restrictions that may apply to any particular funds and the State's constitutional obligation to provide equal educational opportunities within the public school system and (2) includes mechanisms by which the State can monitor and ensure that it meets those obligations. Finally, the Legislature should determine whether state or federal court decisions govern the funding of particular programs and ensure that block grant proposals continue to meet those mandates.

Legislative Action: Unknown.

In September 2004, the Legislature enacted Chapter 871, Statutes of 2004, which established six block grants to fund 22 existing categorical programs. However, we are unable to determine if the Legislature considered factors presented in our recommendations before enacting the law.

Finding #4: Inconsistencies or errors exist in CDE’s calculations for four categorical programs.

The Targeted Instructional Improvement Grant (TIIG) program combines funding to certain LEAs for their court-ordered desegregation and voluntary integration programs. LEAs include school districts, charter schools; county offices of education; special education local plan areas; regional occupational centers or programs; the State’s three diagnostic centers; and in a few instances, joint powers authorities.

To calculate recipients’ allocations, state law requires CDE to use both the LEA’s actual average daily attendance (ADA) as reported on the apportionment for the period covering July through April and its total ADA. But state law does not define the term “total” ADA. CDE did not include the adult education ADA when calculating the fiscal year 2001–02 allocations for TIIG. Because state law does not define “total” ADA, it is unclear whether CDE’s exclusion of adult ADA is appropriate. Our recalculation, including adult education ADA, of the allocations for three of the five LEAs tested found that Los Angeles Unified, San Bernardino City Unified, and Fresno Unified would have been increased by \$3.9 million, almost \$36,000, and \$29,000, respectively. This exclusion of adult ADA had no effect on the other two districts because one did not have adult ADA data and the other received the minimum amount set by state law.

We recommended that if the Legislature concurs with CDE’s exclusion of adult ADA when making allocations for the TIIG program, it should enact language to clarify its definition of “total” ADA.

Legislative Action: Partial legislation passed.

In September 2004, the Legislature enacted Chapter 871, Statutes of 2004. Among other things, this law created the Targeted Instructional Improvement Block Grant that combines the targeted instructional improvement grant

and supplemental grants programs and established an allocation method. Specifically, commencing with fiscal year 2005–06, the superintendent of public instruction must apportion block grant funds to a school district in the same relative statewide proportion that the school district received in fiscal year 2003–04 for the targeted instructional improvement grant and supplemental grants programs. Beginning with fiscal year 2006–07, the amount of funding a school district receives pursuant for this block grant must be adjusted for inflation by the amount calculated pursuant to Section 42238.1 of the Education Code and for growth as measured by the regular ADA used to calculate the second principal apportionment for kindergarten and grades 1 to 12, inclusive. However, as we point out in our discussion of the California Public School Library Act program, state law does not specifically define the term “regular” ADA and CDE uses different definitions for “regular” ADA.

The California Public School Library Act program provides funds for resources such as books, periodicals, computer software, CD-ROMs, and equipment enabling school library and on-line access. State law requires CDE to calculate allocations by using regular ADA reported for the period covering July through April of the prior fiscal year. However, state law does not specifically define the term “regular” ADA. In the absence of a definition, CDE defines “regular” ADA for this program as the regular elementary and high school ADA. CDE uses a different definition when calculating the apportionment for the period covering July through December. Specifically, staff responsible for this task define regular ADA as regular elementary and high school ADA plus extended-year ADA. Applying CDE’s different definitions of regular ADA to our recalculation of the allocations for six LEAs results in different allocation amounts for some districts. For example, using the definition CDE applies to the principal apportionment, our recalculation of the allocations for certain LEAs under the California Public School Library Act program results in \$30,000 more for one LEA and \$665 less for another.

We recommended that if the Legislature desires CDE to properly calculate allocations the way the Legislature intends, it should define “regular” ADA for the California Public School Library Act program.

Legislative Action: Legislation passed.

In September 2004, the State enacted Chapter 871, Statutes of 2004. Among other things, this law created the School and Library Improvement Block Grant by combining the school library materials program—the California Public School Library Act program—and the school improvement programs. It also established an allocation method. Specifically, commencing with fiscal year 2005–06, the superintendent of public instruction must apportion block grant funds to a school district in the same relative statewide proportion that the school district received in fiscal year 2003–04 for the school library materials program and the school improvement programs. Beginning with fiscal year 2006–07, the amount of funding a school district receives shall be adjusted for inflation by the amount calculated pursuant to Section 42238.1 of the Education Code and for growth as measured by enrollment in kindergarten and grades 1 to 12, inclusive, as reported in the California Basic Education Data System report.

The School Improvement Programs funds school site councils' plans to improve instruction, services, and school environment. CDE's allocation method appears inconsistent with a literal reading of the statutory allocation formula found in state law. Currently, the School Improvement Programs are sunsetted by other provisions of state law, yet the Legislature continued to fund it in the annual budget act. Our legal counsel has advised us that CDE is required to comply generally with the purposes of the program and to continue allocating funds under the sunset statutory allocation formula.

State law specifies how CDE is to determine whether schools with Kindergarten through grade six (K-6) should receive a cost-of-living adjustment (COLA). Our review of CDE's calculation found that CDE has been multiplying the predetermined rate of \$106 by the annual COLA percentage instead of the same percentage increase made in base revenue limits for unified school districts with more than 1,500 ADA. The Legislature's intent in enacting Education Code, Section 52048(a) (b), was to simplify and equalize the funding system for schools with K-6. Because CDE could not provide us with the percentage increase data for the unified school districts for fiscal years 1985–86 through 2000–01, we are unable to compute the overall effect that this apparent inconsistency has on meeting the Legislature's intent.

We recommended that if the Legislature continues to fund the School Improvement Programs in the annual budget and intends that CDE make adjustments to equalize the funding for schools with K-6 using the same percentage increase made in base revenue limits for unified school districts with more than 1,500 ADA, it should enact language that provides CDE with specific instructions on how to compute the percentage increase.

Legislative Action: Legislation passed.

In September 2004, the Legislature enacted Chapter 871, Statutes of 2004. Among other things, this law created the School and Library Improvement Block Grant by combining the school library materials program and the school improvement programs and established an allocation method. Specifically, commencing with fiscal year 2005–06, the superintendent of public instruction must apportion block grant funds to a school district in the same relative statewide proportion that the school district received in fiscal year 2003–04 for the school library materials program and the school improvement programs. Beginning with fiscal year 2006–07, the amount of funding a school district receives shall be adjusted for inflation by the amount calculated pursuant to Section 42238.1 of the Education Code and for growth as measured by enrollment in kindergarten and grades 1 to 12, inclusive, as reported in the California Basic Education Data System report.

The Miller-Unruh Basic Reading Act program (Miller-Unruh) provides a school district an allowance for the salary of reading specialists, computed by multiplying the number of reading specialists the district employs by the statewide average salary for such a position. Districts must use their funds to pay for any difference between the allowance and the teachers' actual salaries. On June 30, 1987, Miller-Unruh was sunsetted by provisions of state law, yet the Legislature continued to fund it in the annual budget act.

State law allows CDE to adopt an allocation method but has requirements for prioritizing new Miller-Unruh funds. In calculating the number of reading specialists to allocate to applicants, CDE did not follow a 1999 state law requiring the use of Academic Performance Index (API) data to define underperforming schools and did not follow the requirement of the 2001 Budget Act to consider the financial ability of those districts with the lowest base revenue limit amounts.

Instead, CDE relied only on factors such as mean reading scores below 565 on the Stanford 9 tests, the number of previously authorized reading specialists, and the number of elementary schools within a district. Moreover, although CDE calculated its fiscal year 2002–03 allocation using applicants’ base revenue limit amounts, it still did not use their API data. As a result, for fiscal years 2001–02 and 2002–03, those school districts with underperforming schools or the lowest base revenue limits may not have received first priority for the reading specialist positions. The State did not appropriate funds for Miller-Unruh for fiscal year 2003–04.

CDE also failed to adhere to state law regarding the reallocation of unused reading specialist positions. For fiscal year 2001–02, LEAs reported to CDE that they did not use 66 Miller-Unruh reading specialist positions. However, in fiscal year 2002–03, CDE did not reallocate 54 of these unused positions, allowing 28 LEAs to retain them. Further, CDE’s billing data for fiscal year 2001–02 indicates that eight of the 28 LEAs that did not even participate in Miller-Unruh continued to receive allocations in fiscal year 2002–03 for 9.5 positions. Because CDE did not follow state law to reallocate unused reading specialist positions, some districts that could have used the specialists went without them.

We recommended that if the Legislature continues to fund the Miller-Unruh Basic Reading Act program in the annual budget, it should ensure that CDE allocates Miller-Unruh reading specialist positions in a manner that gives first priority to school districts with underperforming schools and the lowest base revenue limits. Further, it should ensure that CDE reallocates unused positions in the following fiscal year.

Legislative Action: None.

Although the State funded the Miller-Unruh Basic Reading Act program in the Budget Acts for fiscal years 2001–02 and 2002–03, it did not do so in the Budget Acts for fiscal years 2003–04 and 2004–05.

Finding #5: CDE has yet to implement fully the bureau’s previous recommendations aimed at strengthening its oversight methods.

CDE’s oversight methods are similar to those it had in place when the bureau conducted its last audit of CDE’s monitoring efforts. In January 2000 the bureau issued a report titled

Department of Education: Its Monitoring Efforts Give Limited Assurance That It Properly Administers State and Federal Programs. The bureau found that CDE staff did not review fund recipients based on their risk for noncompliance, did not routinely use performance measures to assess quality and effectiveness, did not conduct the number of required program reviews, and did little to ensure that organizations took corrective actions or faced sanctions when CDE discovered deficiencies. The bureau recommended that CDE make several changes in its oversight of state and federal programs, for example, establish performance measures, direct staff to adhere to audit and review cycles, monitor LEAs' corrective action, and enforce fiscal and administrative penalties as needed. Yet CDE has not taken action on some of the bureau's recommendations, citing budget cuts as the cause. Consequently, CDE lacks assurance that recipients are properly spending the funds that these categorical programs provided.

We asked CDE to provide us with its current progress and planned action for implementing 15 of the bureau's recommendations from the January 2000 report. According to CDE, it fully implemented eight recommendations, partially implemented three, and is evaluating and reconsidering the remaining four. Our review of CDE's efforts showed that it did not always identify current progress and planned actions for all of its monitoring divisions and did not always specifically address its implementation of the bureau's recommendations. For example, in our prior report the bureau recommended that CDE modify its underlying philosophy for administering state and federal programs to restore its accountability for monitoring entities receiving federal funds. However, even though in September 2003 CDE stated that it will revise the coordinated compliance review (CCR) monitoring process for fiscal year 2004–05, it is silent as to how it will modify its underlying philosophy for other monitoring divisions administering state and federal programs. In addition, the bureau recommended that CDE prepare a department-wide monitoring plan that includes, at a minimum, various elements such as monitoring goals and identifying mandated monitoring requirements. In its one-year response to our January 2000 report, CDE stated that it convened an external advisory committee to discuss the redesign of its monitoring and accountability system. However, CDE does not describe the results of the committee

meeting in its September 2003 discussion on current progress and does not address how it has prepared a department-wide monitoring plan. The bureau also recommended that CDE direct all program reviewers to adequately document the monitoring procedures performed during site visits. CDE told us that it plans to develop a checklist for every program compliance area in the CCR process; reviewers will check “yes” or “no” to demonstrate whether they have reviewed the required documentation. However, because the proposed checklist will not require CCR reviewers to document exactly what they examine during site visits, the checklist may hinder a supervisor’s ability to ensure that the CCR reviewer examined all required items. Finally, the bureau recommended that CDE establish a monitoring committee composed of various representatives such as executive management, audits division, CCR reviewers, and individual program reviewers. In its September 2003 discussion of its planned action for implementing the recommendation, CDE does not state whether it will establish a monitoring committee. Rather, CDE states that the CCR reviewers meet with CDE program staff to refocus the CCR monitoring process and that its Audits and Investigations Unit periodically meets with and distributes reports to the Nutrition Services and Child Development divisions as well as the Adult Education Office to discuss their monitoring efforts.

We recommended that CDE continue to implement the bureau’s January 2000 recommendations aimed at strengthening CDE’s oversight.

CDE Action: Partial corrective action taken.

CDE stated that the establishment of a new monitoring process is under development to replace the current CCR process. Although it did not address several specific points of our recommendation, CDE pointed out that it is working on several tasks that will provide effective oversight of categorical programs. CDE also stated that as budget deliberations take place regarding categorical programs, it will consider the necessary resources to address any newly required programmatic changes.

CDE stated that it implemented a process to follow up with LEAs not submitting proposed resolution of findings by the required 45-day timeframe. It also stated that all federal and state monitoring findings and the LEAs’ proposed resolutions of findings are entered in a compliance tracking system. CDE developed a status report to identify districts that have not

responded timely. CDE stated that it contacts those LEAs that have not submitted their proposed resolutions of findings on time to determine the reason for the delay and to provide all necessary monitoring assistance.

Finding #6: CDE provides no assurance that funds are spent properly for two categorical programs totaling \$1.8 billion.

For the TIIG program and the Lottery Education Fund, CDE provides no assurance that funds are spent properly. CDE stated that discussions with legislative staff led it to believe that TIIG was purposely kept ambiguous to allow previous participants greater flexibility in spending funds and using the funds to embark on new programmatic areas. Thus, in February 2002 CDE informed county and district superintendents of schools and district business officials that there would be no application process, claim audit, reporting requirements, or program plans for TIIG. Further, CDE points out that the second priority of TIIG—to provide instructional improvement for the “lowest-achieving pupils in the district”—would be almost impossible to monitor because state law does not define this term. CDE believes that legislative staff are fully aware that there is little reason for oversight given such broad terms. CDE also points out that the Legislature did not intend to establish fiscal oversight because the new law deletes previous audit requirements. Specifically, previous state law for the desegregation programs under court mandate required LEAs to submit a claim for reimbursement to the SCO for the costs of the program. The claims were subject to the audit and approval of the SCO prior to payment to ensure that the LEA was complying with state law. However, current state law creating TIIG makes no mention of SCO or CDE oversight.

We recommended that if the Legislature intends CDE to provide oversight for TIIG, it should enact language specifically requiring CDE to do so. It should also enact language to define the term “lowest-achieving pupils in the district.”

CDE Action: Unknown.

In September 2004, the Legislature enacted Chapter 871, Statutes of 2004. Among other things, this law created the Targeted Instructional Improvement Block Grant by combining the targeted instructional improvement grant and supplemental grants programs. However, the law does not include language that specifically requires CDE

to provide oversight for this block grant. Further, we are unaware of other enacted legislation implementing this recommendation.

The California Lottery Act of 1984 limits the use of lottery funds to the education of students and expressly prohibits lottery funds from being spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose. Under the California Constitution, the voters must approve any changes to the purposes for which lottery funds may be spent. For example, Proposition 20 restricts a small portion of the lottery funds for the purchase of instructional materials.

Control Section 24.60(b) of the 2001 Budget Act requires CDE to conduct a survey of a representative sample of 100 LEAs to determine patterns of use of lottery funds in those agencies and report the survey results to the Legislature and the governor. Yet CDE merely collects and reports the expenditure data and does not review expenditures to ensure that LEAs did not spend them for the acquisition of real property, construction of facilities, financing or research, or any other noninstructional purpose. According to CDE, it plans to propose changes to the *Standards and Procedures for Audits of California K-12 Local Education Agencies (K-12 Audit Guide)*, which the SCO issues to assist certified public accountants and public accountants to determine whether these funds were being spent in compliance with the law. Nevertheless, these efforts will not be sufficient to ensure that lottery funds are not spent on acquisitions that state law expressly prohibits.

We recommended that CDE continue its plan to propose changes to the *K-12 Audit Guide* to determine whether Proposition 20 funds are being spent in compliance with state law. Additionally, it should propose a similar change to the *K-12 Audit Guide* to ensure that funds are not being spent for the acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

CDE Action: Partial corrective action taken.

CDE stated that audit procedures for lottery fund expenditures have been included in the 2004–05 *K-12 Audit Guide* to determine whether lottery funds are being spent for the purchase of instructional materials. CDE also stated that the Education Audit Appeals Panel adopted the lottery



audit procedures as emergency regulations in June 2004 and will consider adopting the permanent regulations in November 2004. Finally, CDE stated that it did not propose audit procedures to determine whether lottery funds are being spent for non-instructional purposes because the term *non-instructional purposes* is not defined in statute.

