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# Part III

# Department of Education

## 34 CFR Subtitle B, Chapter II
## School Improvement Grants; Final Rule

**DEPARTMENT OF EDUCATION**

**34 CFR Subtitle B, Chapter II**

**[Docket ID ED–2009–OESE–0010]**

**RIN 1810–AB06**

## School Improvement Grants; American Recovery and Reinvestment Act of 2009 (ARRA); Title I of the Elementary and Secondary Education Act of 1965, as Amended (ESEA)

**ACTION:** Final requirements for School Improvement Grants authorized under section 1003(g) of Title I of the ESEA.

**SUMMARY:** The U.S. Secretary of Education (Secretary) issues final requirements for School Improvement Grants authorized under section 1003(g) of Title I of the ESEA, and funded through both the Department of Education Appropriations Act, 2009 and the ARRA. The final requirements govern the process that a State educational agency (SEA) uses to award school improvement funds to local educational agencies (LEAs) with the persistently lowest-achieving Title I schools that demonstrate the greatest need for the funds and the strongest commitment to use those funds to raise substantially the achievement of the students attending those schools. Under the final requirements, an LEA may also use school improvement funds to serve persistently lowest-achieving secondary schools that are eligible for, but do not receive, Title I funds and Title I schools in improvement, corrective action, and restructuring that are not among the persistently lowest-achieving schools. The final requirements require an SEA to award school improvement funds to eligible LEAs in amounts sufficient to enable the persistently lowest-achieving schools to implement one of four specific school intervention models.

**DATES:** The requirements are effective February 8, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dr. Zollie Stevenson, Jr., U.S. Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW., room 3W320, Washington, DC 20202. Telephone: (202) 260–0826 or by e-mail: *Zollie.Stevenson@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

*Purpose of Program:* School Improvement Grants under section 1003(g) of the ESEA are used in Title I schools identified for improvement, corrective action, or restructuring that demonstrate the greatest need for the funds and the strongest commitment to use the funds to provide adequate resources in order to raise substantially the achievement of their students so as to enable those schools to make adequate yearly progress (AYP) and exit improvement status. These final requirements emphasize the use of School Improvement Grants in each State's persistently lowest-achieving Title I schools as well as, through a waiver, a State's persistently lowest-achieving secondary schools that are eligible for, but do not receive, Title I, Part A funds.

*Availability of Funds:* Appropriations for School Improvement Grants have grown from $125 million in fiscal year (FY) 2007 to $546 million in FY 2009. The ARRA provides an additional $3 billion for School Improvement Grants in FY 2009. These final requirements govern the total $3.546 billion in FY 2009 school improvement funds, an unprecedented sum with the potential to transform fundamentally some of the Nation's persistently lowest-achieving schools. The Secretary may also use these requirements in subsequent years in which this program is in effect.

**Program Authority:** 20 U.S.C. 6303(g).

*Background:*

*Statutory Context:*

Section 1003(g) of the ESEA requires the Secretary to award School Improvement Grants to each SEA based on the SEA's proportionate share of the funds it receives under Title I, Parts A, C, and D of the ESEA. In turn, each SEA must provide subgrants to LEAs that apply for those funds to assist their Title I schools identified for improvement, corrective action, or restructuring under section 1116 of the ESEA. This assistance is intended to help these schools implement reform strategies that result in substantially improved student achievement so that the schools can make AYP and exit improvement status.

To receive school improvement funds under section 1003(g), an SEA must submit an application to the Department at such time, and containing such information, as the Secretary shall reasonably require. An SEA must allocate at least 95 percent of its school improvement funds directly to LEAs, although the SEA may, with the approval of the LEAs that would receive the funds, directly provide assistance in implementing school reform strategies or arrange for their provision through such other entities as school support teams or educational service agencies. A subgrant to an LEA must be of sufficient size and scope to support the activities required under section 1116 of the ESEA. An LEA's *total* subgrant may not be less than $50,000 or more than $500,000 per year for each participating Title I school in improvement, corrective action, or restructuring. An LEA's subgrant is renewable for two additional one-year periods.

In awarding School Improvement Grants, an SEA must give priority to LEAs that, in their application to the SEA, demonstrate (1) the greatest need for the funds and (2) the strongest commitment to ensuring that the funds are used to provide adequate resources to enable the lowest-achieving schools to raise substantially the achievement of their students.

*Overview of Final Requirements:*

The Secretary published a notice of proposed requirements (NPR) for this program in the **Federal Register** on August 26, 2009 (74 FR 43101). That notice contained background information and the Secretary's rationale for focusing the historic FY 2009 investment in School Improvement Grants on turning around our Nation's persistently lowest-achieving schools. The final requirements retain the general provisions proposed in the NPR with some changes described later in this notice. We note where provisions in the NPR have been reorganized and renumbered in these final requirements.

To drive school improvement funds to LEAs with the greatest need for those funds, the Secretary is requiring each SEA to identify three tiers of schools:

- *Tier I schools:* Title I schools in improvement, corrective action, or restructuring that are identified by the SEA under paragraph (a)(1) of the definition of *persistently lowest-achieving schools.*
- *Tier II schools:* Secondary schools that are eligible for, but do not receive, Title I, Part A funds and are identified by the SEA under paragraph (a)(2) of the definition of *persistently lowest-achieving schools.*
- *Tier III schools:* Title I schools in improvement, corrective action, or restructuring that are not Tier I schools.

An LEA that wishes to receive a School Improvement Grant must submit an application to its SEA identifying which Tier I, Tier II, and Tier III schools it commits to serve and how it will use school improvement funds in its Tier I and Tier II schools to implement one of the following four school intervention models intended to improve the management and effectiveness of these schools:

- *Turnaround model,* which includes, among other actions, replacing the principal and rehiring no more than 50 percent of the school's staff, adopting

a new governance structure, and implementing an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with a State's academic standards.

• *Restart model,* in which an LEA converts the school or closes and reopens it under the management of a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process.

• *School closure,* in which an LEA closes the school and enrolls the students who attended the school in other, higher-achieving schools in the LEA.

• *Transformation model,* which addresses four specific areas critical to transforming persistently lowest-achieving schools.

We have fully aligned the school intervention models and related definitions across the Race to the Top, the State Fiscal Stabilization Fund Phase II, and the School Improvement Grants programs to make it easier for States to develop and implement consistent and coherent plans for turning around their persistently lowest-achieving schools.

In awarding School Improvement Grants to an eligible LEA, an SEA must provide sufficient funding to the LEA, consistent with its proposed budget, to implement the selected school intervention model in each Tier I and Tier II school the LEA commits to serve, to close schools, and to serve participating Tier III schools. An LEA's total grant award must contain funds for each Title I school in improvement, corrective action, or restructuring that the LEA commits to serve, including $500,000 per year for each Tier I school that will implement a turnaround, restart, or transformation model unless the LEA demonstrates that less funding is needed to fully and effectively implement its selected intervention.[1] Once an LEA receives its School Improvement Grant, it has the flexibility to spend more than $500,000 per year in its Tier I and Tier II schools so long as all schools identified in its application are served. Recognizing that it takes time to implement rigorous interventions and reap results in the persistently lowest-achieving schools, the final requirements enable an SEA or LEA to apply to the Secretary for a waiver of the period of availability of school improvement funds beyond September 30, 2011 so as to make those funds available to LEAs for up to three years.

Because data are critical to informing and evaluating the effectiveness of the rigorous interventions being implemented, SEAs and LEAs must report specific school-level data related to the use of school improvement funds and the impact of the specific interventions implemented.

*Availability of State Administrative Funds:*

The Secretary has taken two actions to assist SEAs in preparing to implement the final requirements at both the State and local levels. First, the Secretary published in the **Federal Register** a notice of final adjustments that permits each SEA to reserve an additional percentage of Title I, Part A funds (0.3 or 0.5 percent of its Title I, Part A ARRA allocation, depending on whether the SEA requests waivers of certain requirements) to help defray the costs associated with ARRA data collection and reporting requirements (74 FR 55215 (Oct. 27, 2009)), including those required by ARRA School Improvement Grants. Second, the Secretary is awarding immediately the full amount each State may reserve from its FY 2009 School Improvement Grant for State administration, technical assistance, and evaluation. These funds may be used at the State level for such activities as preparing the State application and developing LEA applications as well as providing technical assistance to LEAs with persistently lowest-achieving schools that will be likely to receive a School Improvement Grant. Such technical assistance might include disseminating model processes to assist LEAs in carrying out needs assessments and screening partner organizations; initiating State or regional efforts to recruit and develop principals to serve in persistently lowest-achieving schools; attracting EMOs and CMOs to the State to restart persistently lowest-achieving schools; and developing sample competencies that LEAs can use to review staff to work in a turnaround environment. An SEA may also allocate some of the funds to LEAs in order to provide resources to ensure that those LEAs are ready to implement the interventions in their Tier I and Tier II schools if and when they receive a School Improvement Grant. An LEA might, for example, use the funds to review student achievement; evaluate current policies and practices that support or impede reform; assess the strengths and weaknesses of school leaders, teachers, and staff; recruit and train effective principals capable of implementing an intervention; or identify and screen outside partners.

*Major Changes from the School Improvement Grants NPR:*

The following is a summary of the major, substantive changes we made based on public comments on the School Improvement Grants NPR as well as the NPR for the State Fiscal Stabilization Fund Phase II program and the notice of proposed priorities, requirements, definitions, and selection criteria for the Race to the Top program. The rationale for each of these changes is discussed in the *Analysis of Comments and Changes* section of this notice.

**Major Changes Made in the State Fiscal Stabilization Fund Phase II Notice of Final Requirements, Definitions, and Approval Criteria**

Because a central purpose of ARRA funds is to increase the academic achievement of students in struggling schools, the notices regarding the State Fiscal Stabilization Fund Phase II, the Race to the Top Fund, and the School Improvement Grants programs each included requirements related to struggling schools. Commenters on each notice recommended that the Department apply consistent definitions and requirements for struggling schools across all three programs. In response, we revised the four school intervention models proposed in the School Improvement Grants NPR and integrated them into the criteria, definitions, and requirements for all three programs. In addition, we developed several definitions for use in all three programs.

Because the State Fiscal Stabilization Fund Phase II notice of final requirements was the first to be published (74 FR 58436 (Nov. 12, 2009)), we issued, in that notice, the final requirements for the four school intervention models as well as definitions of *persistently lowest-achieving schools, increased learning time,* and *student growth.* The following summarizes the changes reflected in those final requirements from the School Improvement Grants NPR. (The section citations from the State Fiscal Stabilization Fund Phase II notice for the school intervention models are preceded by ''I.A.2'' and the definitions are in new section I.A.3 to conform to the remaining citations in the final requirements for the School Improvement Grants program.)

• New section I.A.3 adds a definition of *persistently lowest-achieving*

[1] An SEA may award school improvement funds to an LEA based only on the Title I participating schools that the LEA identifies in its application. Tier II schools will, thus, not generate any funds because they are not Title I schools in improvement, corrective action, or restructuring; however, the LEA may serve them, through a waiver requested by the SEA or LEA, with the school improvement funds the LEA receives.

schools[2] that incorporates, with the following changes, the proposed definitions of Tier I and Tier II schools:

- An SEA must include Title I participating and Title I eligible, but not participating, high schools that have had a graduation rate, as defined in 34 CFR 200.19(b), of less than 60 percent over a number of years.
- An SEA must identify the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater.
- An SEA has discretion to define ''lack of progress'' in the ''all students'' group to identify its *persistently lowest-achieving schools.*
- New Section I.A.3 adds a definition of *increased learning time* as that term is used in the definitions for the turnaround and transformation models.
- New Section I.A.3 adds a definition of *student growth* as that term is used in describing evaluation systems for teachers and principals in the transformation model.
- Section I.A.2(a) makes the following changes in the turnaround model:
- In new paragraph (a)(1)(i) (proposed (a)(i)), an LEA must give the principal sufficient operational flexibility to implement fully a comprehensive approach to improving student achievement and increasing graduation rates.
- In new paragraph (a)(1)(ii), using locally adopted competencies, an LEA must screen all staff, rehiring no more than 50 percent, and select new staff.
- In new paragraph (a)(1)(vi) (proposed (a)(vi)), an LEA must use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with the State's academic standards.
- New section I.A.2(a)(2) clarifies that a turnaround model may include any of the required and permissible activities under the transformation model and may be a new school model.
- Section I.A.2(b) clarifies that, in the restart model, an LEA may convert a school as well as close and reopen it. This section also adds definitions of CMO and EMO that were in the preamble of the School Improvement Grants NPR.
- Section I.A.2(c) clarifies that, in the school closure model, students from a closed school must be enrolled in higher-achieving schools that should be within reasonable proximity to the closed school and may include, but are not limited to, new schools as well as charter schools.
- Section I.A.2(d) makes the following changes in the transformation model:
- In new paragraph (d)(1)(i)(B) (proposed (d)(i)(A)(*1*)), an LEA must use rigorous, transparent, and equitable evaluation systems for teachers and principals that take into account data on student growth and other factors such as observation-based assessments of performance and collections of professional practice and that are designed and developed with teacher and principal involvement.
- In new paragraph (d)(1)(i)(C) (proposed (d)(i)(A)(*2*)), an LEA must reward staff who increase student achievement and graduation rates and remove those who, after ample opportunities have been provided to improve their professional practice, have not done so.
- In new paragraph (d)(2)(ii)(C), an LEA may provide additional supports and professional development to teachers and principals on implementing effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited English proficient students[3] acquire language skills to master academic content.
- In new paragraph (d)(2)(ii)(D), an LEA may integrate technology-based supports and interventions as part of a school's instructional program.
- In new paragraph (d)(2)(ii)(E)(*1*) (proposed (d)(ii)(B)(*3*)(*a*)), an LEA may offer advanced coursework that includes science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities.
- In new paragraph (d)(2)(ii)(E)(*3*) (proposed (d)(ii)(B)(*3*)(*c*)), an LEA may use, among other strategies, re-engagement strategies, competency-based instruction, and performance-based assessments to increase graduation rates.
- In new paragraph (d)(2)(ii)(E)(*4*), an LEA may establish early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.
- In new paragraph (d)(3)(ii)(D), an LEA may expand the school program to offer full-day kindergarten or pre-kindergarten.

**Major Changes Made in These Final Requirements**

The following summarizes the major changes from the School Improvement Grants NPR that we are making in these final requirements.

- New section I.B.4 clarifies that an SEA may seek a waiver from the Secretary to enable an LEA to use school improvement funds to serve a Tier II secondary school.
- New section I.B.5 clarifies that an SEA may seek a waiver from the Secretary to extend the period of availability of school improvement funds beyond September 30, 2011 so as to make those funds available to the SEA and its LEAs for up to three years.
- New section I.B.6 clarifies that, if an SEA does not seek a waiver under sections I.B.2, I.B.3, I.B.4, or I.B.5, an LEA may seek a waiver.
- New section II.A.2(a) (proposed II.A.2) clarifies that an LEA's application must include, among other items, the specific intervention the LEA will implement in each Tier I and Tier II school it commits to serve; evidence of the LEA's strong commitment to use school improvement funds to implement the selected interventions; a timeline for implementation; and a budget.
- New section II.A.2(b) (proposed II.A.2) prohibits an LEA that has nine or more Tier I and Tier II schools from implementing the transformation model in more than 50 percent of those schools.
- Section II.A.4 clarifies that an LEA's budget may request less than $500,000 for a Tier I or Tier II school if the LEA demonstrates that less funding is needed to fully and effectively implement the selected intervention.
- Section II.A.7 requires an LEA to measure progress on the leading indicators in section III of these requirements and to establish annual goals for student achievement on the State's assessments in both reading/language arts and mathematics to monitor each Tier I and Tier II school that receives school improvement funds.
- New section II.B.2(c) clarifies that an SEA, consistent with State law, may take over an LEA or specific Tier I or Tier II schools in order to implement one of the four interventions.
- New section II.B.2(d) clarifies that an SEA may not require an LEA to implement a particular intervention in

[2] Persistently lowest-achieving schools are the same schools targeted in the Race to the Top competitive grant program and on which States must report under Phase II of the State Fiscal Stabilization Fund under the ARRA.

[3] The Department recognizes that stakeholders often use terms such as ''English language learners'' rather than ''students who are limited English proficient'' when referring to students who are acquiring basic English proficiency and developing academic English skills. However, because the ESEA defines the term ''limited English proficient,'' and both the statute and the implementing regulations use this term, as well as the phrase ''students with limited English proficiency,'' we will continue to use the latter terms in this notice.

one or more schools unless the SEA has taken over the LEA or school.

• New section II.B.3 requires an SEA to post on its Web site all final LEA applications for School Improvement Grants and a summary of those grants that includes the following information: name and National Center for Education Statistics (NCES) identification number of each LEA awarded a grant; amount of each LEA's grant; name and NCES identification number of each school to be served; and type of intervention to be implemented in each Tier I and Tier II school.

• Section II.B.6 requires an SEA to allocate $500,000 per year for each Tier I school unless the SEA determines on a case-by-case basis, considering such factors as school size, the intervention selected, and other relevant circumstances, that less funding is needed to fully and effectively implement the intervention.

• New section II.B.10(a) requires an SEA not serving every Tier I school in a State with FY 2009 school improvement funds to carry over 25 percent of those funds, combine them with FY 2010 school improvement funds (depending on the availability of appropriations), and award those funds to eligible LEAs consistent with these final requirements. That section exempts from this requirement, however, a State that does not have sufficient school improvement funds to serve all the Tier I schools that LEAs in the State commit to serve. If each Tier I school is served with FY 2009 school improvement funds, new section II.B.10(b) permits an SEA to reserve up to 25 percent of its FY 2009 funds and award them in combination with its FY 2010 funds (depending on the availability of appropriations) consistent with the final requirements.

• New section II.B.11 requires an SEA, in identifying Tier I and Tier II schools for purposes of allocating school improvement funds in years following FY 2009, to exclude from consideration any school that was previously identified and in which an LEA is implementing one of the four school intervention models.

• New section II.B.12 requires an SEA that is participating in the ''differentiated accountability pilot'' to ensure that its LEAs use school improvement funds under section 1003(g) of the ESEA in a Tier I or Tier II school consistent with these requirements.

• New section II.B.13 clarifies that, before submitting its application for a School Improvement Grant to the Department, an SEA must consult with its Committee of Practitioners established under section 1903(b) of the ESEA regarding the rules and policies contained therein and may consult with other stakeholders that have an interest in its application.

• Section III makes the following changes to the reporting metrics:

• Modifies the metric on State assessment scores to require SEAs to report on average scale scores on State assessments in reading/language arts and in mathematics, by grade, for the ''all students'' group, for each achievement quartile, and for each subgroup.

• Modifies the metric regarding English proficiency of Title III limited English proficient students by expanding it to apply to all limited English proficient students in Tier I and Tier II schools who attain English proficiency.

• Removes the metric regarding ''AMAO status for LEP students.''

• Modifies the metric on advanced coursework to require SEAs to report the number and percentage of students completing advanced coursework.

• Modifies the metric regarding the number of instructional minutes to require SEAs to report the number of minutes within the school year.

• Clarifies that SEAs must report rates of ''student attendance'' and ''teacher attendance.''

*Analysis of Comments and Changes:*

In response to our invitation in the NPR, 182 parties submitted comments. An analysis of the comments and any changes in response to those comments follows. Generally, we do not address technical and other minor changes.

**Analysis of Comments and Changes Included in the State Fiscal Stabilization Fund Phase II Notice of Final Requirements, Definitions, and Approval Criteria**

The following discussion summarizes the comments we received, and our responses, on the definitions of Tier I and Tier II schools proposed in the School Improvement Grants NPR that are now included in the definition of *persistently lowest-achieving schools.* This discussion also summarizes the comments and our responses on the four school intervention models proposed in the School Improvement Grants NPR. These comments and responses were first published in the State Fiscal Stabilization Fund Phase II Notice of Final Requirements, Definitions, and Approval Criteria (74 FR 58436 (Nov. 12, 2009)) and are repeated here verbatim.

**Definition of Persistently Lowest-Achieving Schools**

*Comment:* A number of commenters recommended alternatives to the process proposed in the [School Improvement Grants] SIG NPR for determining the lowest-achieving five percent of all Title I schools in improvement, corrective action, or restructuring in the State—that is, ''Tier I'' schools. As proposed in the SIG NPR, a Tier I school is a school in the lowest-achieving five percent of all Title I schools in improvement, corrective action, or restructuring in the State, or one of the five lowest-achieving Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater. Under the SIG NPR, to determine this ''bottom five percent,'' a State would have had to consider both the absolute performance of a school on the State's assessments in reading/language arts and mathematics and whether its gains on those assessments for the ''all students'' group over a number of years were less than the average gains of schools in the State for the ''all students'' group.

Several commenters said this proposed process was too prescriptive and recommended that States have more flexibility in determining the lowest-achieving five percent. The commenters specifically suggested permitting States to restrict Tier I schools to schools in restructuring if this group constitutes more than five percent of a State's identified schools; to apply a State's growth model; or to consider such other factors as measures of individual student growth, writing samples, grades, and portfolios. One commenter suggested that the Department determine the lowest-achieving five percent of schools in the Nation rather than have each State determine its own lowest-achieving five percent. Other commenters recommended changes that include taking into account the length of time a school has been designated for restructuring, measuring gains related to English language proficiency, and including newly designated Title I schools (especially secondary schools) that do not yet have an improvement status.

Several commenters also suggested changing the method for determining ''lack of progress,'' including using subgroups rather than the ''all students'' group, measuring progress in meeting adequate yearly progress targets, and narrowing achievement gaps. Another commenter recommended clarifying that, even if a school shows gains greater than the State average, it should

not be considered to be making progress if those gains are not greater than zero.

Finally, several commenters suggested that graduation rates be taken into account in determining the lowest-achieving Title I high schools. One of these commenters suggested including in Tier I all Title I high schools in improvement, corrective action, or restructuring with a graduation rate below 60 percent as well as their feeder middle and junior high schools.

*Discussion:* In developing our proposed definition of the lowest-achieving five percent of schools for each State as defined in the SIG NPR, we considered several alternatives, including the use of the existing ESEA improvement categories and the possibility of using a measure that would identify the lowest-achieving five percent of schools in the Nation rather than on a State-by-State basis. The goal was to identify a uniform measure that could be applied easily by all States using existing assessment data. We started with Title I schools in improvement, corrective action, or restructuring as the initial universe from which to select the lowest-achieving schools because those are the schools eligible to receive SIG funds. ESEA improvement categories were deemed too dependent on variations in individual subgroup performance, rather than the overall performance of an entire school, to reliably identify our worst schools. A nationwide measure, although appealing from the perspective of national education policy, would likely have identified many schools in a handful of States and few or none in the majority of States, making it an inappropriate guide for the most effective use of State formula grant funds.

In general, we believe that the changes and alternatives suggested by commenters would add complexity to the method for determining the lowest-achieving five percent of schools without meaningfully improving the outcome. With the changes noted subsequently, we believe the definition proposed in the SIG NPR is straightforward, can be easily applied using data available in all States, and can produce easily understood results in the form of a list of State's lowest-achieving schools that have not improved in a number of years.

Regarding the determination of whether a school is making progress in improving its scores on State assessments, the commenters highlighted the complexity and potential unreliability of measuring year-to-year gains on such assessments. In response, we are simplifying this aspect of the definition to give SEAs greater flexibility in determining a school's lack of progress on State assessments over a number of years.

We also agree that it is important to include Title I high schools in improvement, corrective action, or restructuring that have low graduation rates in the definition. The Secretary has made addressing our Nation's unacceptably high drop-out rates—an estimated 1 million students leave school annually, many never to return—a national priority. In recognition of this priority, and in response to recommendations from commenters, we are including in the definition any Title I high school in improvement, corrective action, or restructuring that has had a graduation rate that is less than 60 percent over a number of years.

Accordingly, we have made these changes and incorporated the process for determining the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring—also known as Tier I schools for purposes of SIG funds—into a new definition of *persistently lowest-achieving schools* in this notice.

*Changes:* The Department has added a definition of *persistently lowest-achieving schools* to this notice that incorporates the process described in the SIG NPR for determining the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring (or the lowest-achieving five such schools, whichever number of schools is greater) (''Tier I'' schools for purposes of SIG). This new definition also includes any Title I high school in improvement, corrective action, or restructuring that has had a graduation rate of less than 60 percent over a number of years (as will the ''Tier I'' definition for SIG purposes). We have removed language in proposed section I.A.1.a(ii) of the SIG NPR defining ''a school that has not made progress.''

*Comment:* Numerous commenters expressed support for including chronically low-achieving secondary schools that are eligible for, but not receiving Title I funds as Tier II schools, as proposed in section I.A.1.b in the SIG NPR, including one commenter who suggested that LEAs be required to fund Tier II schools. Other commenters, however, opposed the use of Title I funds in non-Title I schools and recommended that other funding be identified to serve those schools or stated that the inclusion of those schools is more appropriately addressed in the Title I reauthorization. One commenter suggested that it would not be appropriate to provide Title I funds to such schools when the SIG NPR would restrict the number of Title I schools that can be served in Tier I.

*Discussion:* We believe that low-achieving secondary schools often present unique resource, logistical, and pedagogical challenges that require rigorous interventions to address. Yet, many such schools that are eligible to receive Title I funds are not served because of competing needs for Title I funds within an LEA. The large amounts of ARRA funds—available through Stabilization, Race to the Top, and SIG—present an opportunity to address the needs of these low-achieving secondary schools. Accordingly, we have continued in this notice to include secondary schools that are eligible for, but do not receive, Title I funds in the definition of the persistently lowest-achieving schools in a State.

As proposed in the SIG NPR, such secondary schools would have been eligible if they were equally as low-achieving as a Tier I school. We realized that this standard was too vague, particularly in light of the rigorous interventions that would be required if an SEA identified, and an LEA decided to serve, such a school. As a result, we have changed the definition to include secondary schools that are eligible for, but do not receive, Title I funds and that are among the lowest-achieving five percent of such schools in a State (or the lowest five such schools, whichever number of schools is greater). An SEA must identify these schools using the same criteria as it uses to identify the lowest-achieving Title I schools in improvement, corrective action, and restructuring.

For the reasons noted earlier in this notice, we have also included in the definition any high school that is eligible for, but does not receive, Title I funds and that has had a graduation rate that is less than 60 percent over a number of years.

*Changes:* The Department has added a definition of *persistently lowest-achieving schools* to this notice that incorporates the lowest-achieving five percent of secondary schools in a State that are eligible for, but do not receive, Title I funds (or the lowest-achieving five such schools, whichever number of schools is greater) (''Tier II'' schools for purposes of SIG). This new definition also includes any high school that is eligible for, but does not receive, Title I funds that has had a graduation rate of less than 60 percent over a number of years (as will the ''Tier II'' definition for SIG purposes). We have removed language in proposed section I.A.1.b of the SIG NPR that required a comparison of the achievement of secondary schools to Tier I schools.

**General Comments on the Four Intervention Models**

*Comment:* One commenter supported the Secretary's intent in proposing the four interventions in the SIG NPR. The commenter noted that the majority of SIG funds are intended to target the very lowest-achieving schools in the Nation—schools that have not just missed their accountability targets by narrow margins or in a single subgroup. Rather, they are schools that have ''profoundly fail[ed]'' their students ''for some time.'' Accordingly, the commenter acknowledged that the four interventions are appropriately designed to engage these schools in bold, dramatic changes or else to close their doors.

Conversely, several commenters suggested that the four interventions are too prescriptive and do not leave room for State innovation and discretion to fashion similarly rigorous interventions that may be more workable in a particular State. The commenters noted that for some school districts, particularly the most rural districts, none of the interventions may be feasible solutions. In addition, several commenters rejected the idea that there should be any Federal requirements governing struggling schools. The commenters suggested that schools in need of improvement be permitted to engage in self-improvement strategies tailored to each individual school's needs as determined at the local level based on local data, rather than being mandated to adopt specific models by the Federal Government.

*Discussion:* We disagree that the four models limit State innovation. Each model provides flexibility and permits LEAs to develop approaches that are tailored to the needs of their schools within the broad context created by each model's requirements. We do not believe that any one model is appropriate for all schools; rather, it is the Department's intention that LEAs select the model that is appropriate for each particular school.

*Changes:* None.

*Comment:* Several commenters suggested adding a fifth intervention option. One commenter, for example, suggested permitting States to propose an alternative, but rigorous, intervention model for approval through a peer review process. The commenter noted that whatever accountability measure is adopted in the SIG notice of final requirements should serve to ensure that the model is held accountable for results. Another commenter suggested a ''scale up'' model, in which an LEA could use SIG funds to expand interventions with documented success in producing rapid improvement in student achievement within that LEA or in another LEA with similar demographics and challenges. Yet another commenter suggested adding a ''supported transformation'' model to accommodate, in particular, the needs of children in low-achieving schools in small, rural communities that lack the capacity to transform their schools. The commenter identified the need for an SEA to build the capacity of struggling LEAs by working to develop models for intervention, to identify specific evidence-based intervention strategies, and to provide ongoing, intensive technical, pedagogical, and practical assistance so as to increase LEAs' capacity to assist their low-achieving schools.

*Discussion:* We included the four school intervention models in the SIG NPR after an extensive examination of available research and literature on school turnaround strategies and after outreach to practitioners. Our goal, which we believe was achieved, was to identify fundamental, disruptive changes that LEAs could make in order to finally break the long cycle of educational failure—including the failure of previous reforms—in the Nation's persistently lowest-achieving schools. We also believe that these models, despite their limited number, potentially encompass a wide range of specific reform approaches, thus negating the need for a ''fifth model.'' We understand, for example, that school closure may not work in some LEAs, but that leaves the turnaround, restart, or transformation models as possible options for them. We also know that not all States have a charter school law, limiting the restart options available to LEAs in such States. However, even where charter schools are not an option, an LEA could work with an Education Management Organization (EMO) to restart a failed school or could pursue one of the other three intervention models. And we understand that some rural areas may face unique challenges in turning around low-achieving schools, but note that the significant amount of funding available to implement the four models will help to overcome the many resource limitations that previously have hindered successful rural school reform in many areas.

The four school intervention models described in the SIG NPR also are internally flexible, permitting LEAs to develop their own approaches in the broad context created by the models' requirements. For example, the turnaround and restart models focus on governance and leadership changes, leaving substantial flexibility and autonomy for new leadership teams to develop and implement their own comprehensive improvement plans. Even the transformation model includes a wide variety of permissible activities from which LEAs may choose to supplement required elements, which are primarily focused on creating the conditions to support effective school turnarounds rather than the specific methods and activities targeting the academic needs of the students in the school.

We also note that over the course of the past eight years, States and LEAs have had considerable time, and have been able to tap new resources, to identify and implement effective school turnaround strategies. Yet they have demonstrated little success in doing so, particularly in the Nation's persistently lowest-achieving schools, including an estimated 2,000 ''dropout factories.'' Under the ESEA, States have been required to set up statewide systems of support for LEA and school improvement; to identify low-achieving schools for a range of improvement, corrective action, and restructuring activities; and to use the school improvement reservation under section 1003(a) of the ESEA to fund such improvement activities. However, the overall number of schools identified for improvement, corrective action, and restructuring continues to grow; in particular, the number of chronically low-achieving Title I schools identified for restructuring has roughly tripled over the past three years to more than 5,000 schools. SEAs have thus far helped no more than a handful of these schools to successfully restructure and exit improvement status, in large part, we believe, because of an unwillingness to undertake the kind of radical, fundamental reforms necessary to improve the persistently lowest-achieving schools.

Finally, although we believe this recent history of failed school improvement efforts justifies using ARRA SIG funds to leverage the adoption of the more far-reaching reforms required by the four school intervention models, we note that Part A of Title I of the ESEA continues to make available nearly $15 billion annually, as well as an additional $10 billion in fiscal year 2009 through the ARRA, that SEAs and LEAs may use to develop and implement virtually any reform strategy that they believe will significantly improve student achievement and other important educational outcomes in Title I schools. In particular, we would applaud State

and local efforts to use existing Title I funds to scale up successful interventions or to build State and local capacity to develop and implement other promising school intervention models. For all of these reasons, we decline to add a fifth school intervention model to this notice.

*Changes:* None.

**Turnaround Model**

**Principal and Staff Replacement**

*Comment:* Many commenters opposed replacing principals and staff as part of the turnaround model. Although several commenters acknowledged that poor leadership and ineffective staff contribute to a school's low performance, a majority claimed that staff replacement has not been established as an effective reform strategy, others stated that such a strategy is not a realistic option in many communities that already face teacher and principal shortages, and one commenter suggested that replacement requirements associated with turnaround plans would discourage teachers and principals from working in struggling schools.

In addition, many commenters opposed sanctioning principals and staff, partly because, as one commenter claimed, the turnaround model assumes that most problems in a school are attributable to these individuals. One stated that principals face ''trying'' circumstances and another stated that the proposed requirements ignore the ''vital role'' that principals play in high-need schools. These commenters stated that other factors—such as poverty, lack of proper support, and tenure and collective bargaining laws—should be addressed before decisions are made to replace principals and staff. One commenter claimed that principals and teachers in low-achieving schools could perform their jobs if they are given adequate training and support and working conditions are improved. Another opposed the replacement requirement because the commenter believed a stable and consistent staff is a key factor in school improvement.

*Discussion:* We understand that replacing leadership and staff is one of the most difficult aspects of the four models; however, we also know that many of our lowest-achieving schools have failed to improve despite the repeated use of many of the strategies suggested by the commenters. The emphasis of the ARRA on turning around struggling schools also reflects, in part, an acknowledgement by the Congress that past efforts have had limited or no success in breaking the cycle of chronic educational failure in the Nation's persistently lowest-achieving schools.

Accordingly, the Department believes that dramatic and wholesale changes in leadership, staffing, and governance—such as those required by the turnaround model—are an appropriate intervention option for creating an entirely new school culture that breaks a system of institutionalized failure. Although we acknowledge the possibility that the turnaround model could discourage some principals and teachers from working in the lowest-achieving schools, others will likely be attracted by the opportunity to participate in a school turnaround with other committed staff. In addition, other Federal programs, such as the Teacher Incentive Fund and Race to the Top programs, are helping to create incentives and provide resources that can be used to attract and reward effective teachers and principals and improve strategies for recruitment, retention, and professional development.

*Changes:* None.

*Comment:* A number of commenters recommended changes to the principal and staff replacement requirements. One commenter proposed a detailed ''fifth model'' that focused upon providing additional support to teachers by improving working conditions, such as reducing class size and providing professional development opportunities. Others recommended (1) providing a principal with the autonomy to make his or her own firing and hiring decisions instead of requiring the replacement of 50 percent of the staff; (2) allowing staff to reapply for their positions; (3) retaining principals who were recently hired; (4) providing principals with a ''window'' of opportunity to improve their schools before being replaced; (5) suggesting that the replacement requirement extend to superintendents and boards of education; (6) retaining at least 50 percent of current staff who reapply and meet all of the requirements of the redesigned school; and (7) focusing on staff qualifications and putting in place effective staff rather than on a particular target level of replacements.

*Discussion:* We agree with some of the changes to the turnaround model suggested by commenters. For example, new language in paragraph (a)(1)(i) of the turnaround model recognizes the vital role played by the principal and acknowledges that new principals need authority to make key changes required to turn around a failing school. Under this new language, the new principal of a turnaround school would have ''sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates.''

We also recognize that the staff selected for a turnaround school must have the skill and expertise to be effective in this context. We are adding language clarifying that all personnel must be screened and selected based on locally adopted competencies to measure their effectiveness in a turnaround environment.

In addition, while the SIG NPR would have required an LEA to replace at least 50 percent of the staff of a turnaround school, new paragraph (a)(1)(ii)(A) of the turnaround model requires an LEA, after screening all staff using locally adopted competencies, to rehire no more than 50 percent of the school's staff. Further, some commenters appear to have overlooked proposed section I.B.1 in the SIG NPR, which would give LEAs flexibility to continue implementing interventions begun within the last two years that meet, in whole or in part, the requirements of the turnaround, restart, or transformation models and, thus, would in many cases allow an LEA to retain a recently hired principal in a turnaround school. We are retaining this flexibility provision in this notice.

Finally, the turnaround model includes significant provisions aimed at supporting teachers. For example, the SIG NPR called for ''ongoing, high-quality, job-embedded professional development to staff,'' as well as increased time for collaboration and professional development for staff. These supports for teachers and other staff are retained in this final notice.

*Changes:* We have modified the provisions in the turnaround model in paragraph (a)(1)(i) to give the new principal of a turnaround school ''sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates.'' As described earlier, we have also revised paragraph (a)(1)(ii) to require that an LEA use locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students. In addition, instead of the requirement that an LEA replace ''at least 50 percent of the staff'' in a turnaround school, paragraph (a)(1)(ii)(A) of the definition requires an

LEA to screen and rehire ''no more than 50 percent'' of the existing staff.

*Comment:* Numerous commenters expressed concerns that a national shortage of principals and teachers would prevent successful implementation of the turnaround model. Two commenters stated that, in order to replace half of the staff as required by the turnaround model, an LEA would likely be forced to hire less experienced teachers and rely on emergency credentials or licensure to fully staff a turnaround school. One commenter claimed that research shows that large pools of available applicants are essential for successful replacement of principals and teachers. Another commenter stated that there is a ''national shortage of transformational leaders'' who can lead turnaround schools. Further, many commenters claimed that replacing half of a school's staff would be difficult or even impossible in rural schools and small communities. One commenter asserted that the shortage of teachers in rural areas would disqualify these LEAs from applying for school improvement funds. Another stated that even with recruitment incentives it would be difficult to fill staff vacancies. One commenter urged the Secretary to take such shortages into account before requiring ''blanket firings'' of teachers. In addition, several commenters observed that chronically low-performing schools already suffer from a number of vacancies due to high staff turnover rates. In fact, one commenter believed replacing 50 percent of the staff was not a ''tough'' consequence because these schools already experience high turnover.

These concerns led several commenters to recommend flexibility regarding the staff replacement requirement of the turnaround model, including the opportunity to request a waiver if an LEA could demonstrate an inability to fill vacancies, and a required evaluation before principals and staff can be replaced. Other commenters opposed the replacement of principals without consideration of such factors as years of experience and district-level support, recommended a three-year window in which to make replacement decisions based upon multiple measures, and suggested the provision of high-quality professional development before replacing any staff.

*Discussion:* We recognize that the replacement requirement will present challenges for LEAs, particularly in rural areas, where highly effective principals and teachers capable of leading educational transformation may be in short supply; however, the difficulty of identifying new qualified teachers and school leaders for a turnaround school must be measured against the enormous human and economic cost of accepting the status quo for the Nation's persistently lowest-achieving schools. We simply cannot afford to continue graduating hundreds of thousands of students annually who are unprepared for either further education or the workforce, or to permit roughly one million students to drop out of high school each year, many of them never to return to school. Instead, States and LEAs must work together to recruit, place, and retain the effective principals and staff needed to implement the turnaround model. The Department is supporting these efforts through Federal grant programs that can provide resources for improving strategies used to recruit effective principals and teachers, such as the Teacher Incentive Fund program, which helps increase the number of effective teachers teaching poor, minority, and disadvantaged students in hard-to-staff subjects and schools.

Finally, we wish to clarify that the requirements for the turnaround model do not require ''blanket firings'' of staff. The Department agrees that staff should be carefully evaluated before any replacement decisions are made and has added new language requiring LEAs to use ''locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students.'' If required by State laws or union contracts, principals and staff may have to be reassigned to other schools as necessary.

*Changes:* As described earlier, we have revised paragraph (a)(1)(ii) to require that an LEA use locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students. The LEA must then screen all existing staff before rehiring no more than 50 percent of them.

*Comment:* Numerous commenters claimed that there is little research supporting the replacement of leadership and staff in school turnaround efforts. One commenter cited a 2008 Institute of Education Sciences (IES) report, ''Turning Around Chronically Low-Performing Schools,'' that, according to the commenter, recommends that decisions to remove staff should be made on an individual basis. Several others also asserted that the proposed requirement to replace at least 50 percent of staff was arbitrary, with two commenters recommending instead that the Department ''empower the turnaround principal with the autonomy to hire, based on merit, for every position in the school.''

*Discussion:* We are not claiming that merely replacing a principal and 50 percent of a school's staff is sufficient to turn around a low-achieving school. Although principal and staff replacement are key features of the turnaround model proposed in the SIG NPR, they are not the only features. The strength of the turnaround model lies in its comprehensive combination of significant staffing and governance changes, an improved instructional program, ongoing high-quality professional development, the use of data to drive continuous improvement, increased time for learning and for staff collaboration, and appropriate supports for students. The staffing and governance changes are intended primarily to create the conditions within a school, including school climate and culture, that will permit effective implementation of the other elements of the turnaround model. Dramatic changes in leadership, staff, and governance structure help lay the groundwork to create the conditions for autonomy and flexibility that are associated with successful turnaround efforts. Accordingly, we decline to remove the requirement for replacing staff in a turnaround model.

*Changes:* None.

*Comment:* Many commenters claimed that teacher tenure, State collective bargaining laws, and union contracts prevent school administrators from replacing staff as required by the turnaround model. Several commenters stated that union contracts would force school administrators to reassign dismissed teaching staff to other schools, and the turnaround model would not solve the problem of removing ineffective teachers from the classroom. One commenter asked if an LEA would have to negotiate staff replacement with the union or if the Federal grant requirements supersede State due process laws. One commenter noted that the Department would have to provide ''involuntary transfer authority'' to LEAs in order for them to implement the turnaround model in collective bargaining States.

Several commenters called for the Department to foster collaboration with teacher unions as well as the larger community. One of these commenters claimed that collaboration ''increases leadership and builds professionalism'' and recommended that evidence of collaboration be documented. Another asserted the involvement of school-based personnel in decision-making is key to the successful implementation of

school interventions. Another recommended that an LEA seek ''feedback'' from all stakeholders, including students, parents, and unions, as to whether an intervention is ''feasible or warranted.''

*Discussion:* We recognize that collective bargaining agreements and union contracts may present barriers to implementation of the turnaround model; however, we do not believe these barriers are insurmountable. In particular, drawing upon pockets of success in cities and States across the country, the Secretary believes LEAs and unions can work together to bring about dramatic, positive changes in our persistently lowest-achieving schools. Accordingly, the Department encourages collaborations and partnerships between LEAs and teacher unions and teacher membership associations to resolve issues created by school intervention models in the context of existing collective bargaining agreements. We also encourage LEAs to collaborate with stakeholders in schools and in the larger community as they implement school interventions.

*Changes:* None.

*Comment:* Many commenters stated that the term ''staff'' was not clearly defined. One commenter presumed it excluded maintenance, food services, and other support staff. Another stated that the Department should allow LEAs to develop their own definition of ''staff,'' and permit LEAs to determine whether non-instructional staff should be included in the replacement calculus. Two commenters also requested greater clarity regarding the meaning of ''new governance.''

*Discussion:* We believe that, in high-achieving schools facing the most challenging of circumstances, every adult in the school contributes to the school's success, including the principal, teachers, non-certificated staff, custodians, security guards, food service staff, and others working in the school. Conversely, in a persistently lowest-achieving school, we believe that no single group of adults in the school is responsible for a culture of persistent failure. For this reason, our general guidance is that an LEA should define ''staff'' broadly in developing and implementing a turnaround model. The Department declines to define the term ''staff'' in this notice, but plans to issue guidance that will clarify this and other issues related to the turnaround model. As for the term ''governance,'' the language in paragraph (a)(1)(v) suggests a number of possible governance alternatives that may be adopted in the context of a turnaround model. The Department declines to provide a more specific definition in order to permit LEAs the flexibility needed to adopt a turnaround governance structure that meets their local needs and circumstances.

*Changes:* None.

*Comment:* Several commenters asked that the Department consider the possible negative consequences of replacing staff on a school and community, with one commenter suggesting that replacing half of the staff could result in more damage ''to a fragile school than no change at all.'' Another commenter stated that maintaining a consistent staff is a key to school success.

*Discussion:* The Secretary disagrees that implementing a turnaround model would be worse than ''no change at all.'' The schools that would implement a turnaround model have, by definition, persistently failed our children for years, and dramatic and fundamental change is warranted. In addition, as stated elsewhere in this notice, the commenters overlook the fact that the other options—the transformation, school closure, and restart models—do not require replacement of 50 percent of a school's staff. If an LEA believes that it cannot successfully meet the requirements of the turnaround model, we recommend that it consider one of the other three options.

*Changes:* None.

*Comment:* Numerous commenters stated that decisions regarding school restructuring are best decided on the local, rather than the Federal, level. One commenter opposed the requirements for the turnaround model as being too prescriptive, and another recommended that the local school board be provided with the discretion to determine how best to implement the turnaround model. One commenter agreed that ''ineffective staff and leadership should be replaced in order for school improvement to work,'' but stated that the turnaround model's ''one-size-fits-all formula may not be the best approach for all schools.'' Two commenters specifically stated that the decision to remove a principal and staff should be determined by a local school board. Similarly, another commenter noted that decisions to replace a principal and staff should be based upon ''local data'' rather than Federal requirements that are not tailored to an individual school's needs. One of these commenters stated that local decision-making is particularly important if a school has been underperforming for a period longer than the ''principal's tenure or if the principal has begun a transformative process that could be harmed by a leadership change.''

*Discussion:* An LEA is free to exercise local control and use local data and leadership to determine which of the four school intervention models to follow in turning around a persistently lowest-achieving school. However, after nearly a decade of broad State and local discretion in implementing, with little success, the school improvement provisions of the ESEA, the Department believes, for the purpose of this program, it is appropriate and necessary to limit that discretion and require the use of a carefully developed set of school intervention models in the Nation's lowest-achieving schools. In particular, the turnaround and transformation models include a combination of staffing, governance, and structural changes with specific comprehensive instructional reforms that the Department believes hold great promise for effective investment of the $3 billion provided for the SIG program by the ARRA.

*Changes:* None.

**Relationship Between Turnaround and Transformation Models**

*Comment:* Several commenters believed the turnaround model lacked sufficient detail and did not provide adequate direction to LEAs attempting to implement the model. In contrast, several commenters appreciated the level of detail contained in the transformation model and suggested that the turnaround model provide a similar level of detail. Some of these commenters recommended that the turnaround model incorporate some of the specific provisions contained in the transformation model. For example, one commenter suggested that the turnaround model include the transformation model's provisions regarding implementation of instructional changes. Another commenter specifically recommended that the turnaround model incorporate the transformation model's criteria for teacher effectiveness.

*Discussion:* We agree that the turnaround model in the SIG NPR lacked clarity and potentially created confusion about whether applicants could draw upon permissible activities described in the transformation model. The Department did not intend to limit LEA discretion in adapting elements of the transformation model to the turnaround model. Accordingly, we are adding new language in paragraph (a)(2)(i) to clarify that an LEA implementing the turnaround model may implement any of the required and permissible activities under the transformation model.

*Changes:* We have clarified in paragraph (a)(2)(i) that an LEA implementing a turnaround model may also implement other strategies such as ''[a]ny of the required and permissible activities under the transformation model.'' In addition, we have made changes in the turnaround model that correspond to changes we made in response to comments on the transformation model. The specific changes are noted subsequently in this notice in our discussion of comments on the transformation model.

**Restart Model**

*Comment:* Many commenters opposed the restart model described in the SIG NPR because, they claimed, charter schools generally do not perform better than regular public schools. In particular, these commenters cited recent research from the Center for Research on Education Outcomes (CREDO) at Stanford University showing that fewer than one-fifth of charter schools demonstrated gains in student achievement that exceeded those of traditional public schools. One commenter also mentioned a RAND study highlighting the low performance of charter schools in Texas and a study by researchers at Johns Hopkins University showing that most EMO-operated schools were outperformed by traditional public schools. Most of these commenters proposed broadening or strengthening the restart option, but one commenter recommended removing it from the list of permitted school intervention models. One commenter claimed that, where charter schools had raised student achievement, in most cases it was attributable to high student attrition rates brought about by demanding school schedules and behavioral rules that did not work for all students. A few commenters noted either that some States do not allow charter schools or that the restart model would be unlikely to work in rural areas. Several commenters also opposed the restart model because it might displace students and disrupt existing efforts to build community schools; another commenter recommended that any planning and reorganization for a restart model take place during the school year, while students remain in the school, so that there would be no disruption in services if the school were closed and then reopened as a restart school.

*Discussion:* We acknowledge that the available research on the effectiveness of charter schools in raising student achievement is mixed, that some State laws significantly limit the creation or expansion of charter schools, and that smaller communities, particularly in rural areas, may not have sufficient access to providers or teachers to support the creation of charter schools. However, there are many examples of high-quality charter schools, and the Secretary believes very strongly that high-achieving charter schools can be a significant educational resource in communities with chronically low-achieving regular public schools that have failed to improve after years of conventional turnaround efforts. Although they are not a ''silver bullet'' for failing schools or communities, a more balanced view of the results produced by charter schools suggests that they offer promising and proven options for breaking the cycle of educational failure and fully merit inclusion in the restart model.

The Department also recognizes the concerns expressed by commenters about the potential disruption to students, parents, and communities that may be connected with a restart plan that involves closing and then reopening a school. To help address this concern, we are adding language to this notice allowing a school conversion—and not just closing and reopening a school—to qualify as an acceptable restart model.

At the same time, the Department emphasizes that just as the restart model is one of four school intervention models supported by this notice, charter schools are just one option under the restart model. Contracting with an EMO is another restart option that may provide sufficient flexibility in States without charter school laws or in rural areas where few charter schools operate. An EMO also may be able to develop and implement a plan that permits students to stay in their school while undergoing a restart. For example, some EMOs hired to turn around a low-achieving school may begin planning for the turnaround in late winter or early spring, hire and train staff in late spring and early summer, reconfigure and re-equip the school—including the acquisition of curricular materials and technology—during the summer, and then reopen promptly in the fall, resulting in minimal, if any, disruption to students and parents.

*Changes:* We have changed the language in paragraph (b) to define a restart model as one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an EMO that has been selected through a rigorous review process.

**Defining Rigorous Review**

*Comment:* Several commenters supported the requirement in the SIG NPR that LEAs select a charter school operator, a CMO, or an EMO through a ''rigorous review process.'' In general, these commenters viewed this requirement as essential to ensuring the quality of a restart model. Commenters also asked for clarification of how such a review would be conducted, including guidance for SEAs and LEAs and opportunities for parent and community involvement in reviewing and selecting a restart school operator. One commenter raised a concern about how it would be possible to review rigorously a new charter school operator, CMO, or EMO.

*Discussion:* We believe that SEAs and LEAs should have flexibility to develop their own review processes for charter school operators, CMOs, and EMOs, based both on local circumstances and on their experiences in authorizing charter schools. We will provide guidance and technical assistance in this area, but will leave final decisions on review requirements to SEAs and LEAs. We believe flexibility in defining ''rigorous review'' is warranted because of the wide variation in local need and community context as well as in the size, structure, and experience of charter school operators, CMOs, and EMOs.

*Changes:* None.

**Clarifying Restart Operator Definitions**

*Comment:* One commenter recommended that the Department provide a definition of CMO and EMO, while other commenters suggested changes or requested clarification of the definitions of CMO and EMO provided in the SIG NPR. One commenter recommended defining a CMO as an organization that ''operates or manages a school or schools'' rather than, as in the SIG NPR, ''operates charter schools.'' This commenter also urged the Department to define ''whole school operations'' as applied to the definition of EMO. Another commenter recommended that the Department include charter schools operated or managed by an LEA in the definition of CMO. One commenter also urged the Department to establish reporting requirements for CMOs and EMOs, including data on student achievement, the impact of reforms on student achievement, information on how CMOs and EMOs serve students with disabilities, and other accountability data. Finally, two commenters also suggested that the Department award funding directly to CMOs and EMOs to

pay for planning, outreach, and training staff for a restart effort.

*Discussion:* We included definitions of CMO and EMO in the preamble of the SIG NPR and are adding these definitions in the definition of *restart model* for clarification purposes. We agree that the definition of CMO should include organizations that operate or manage charter schools and have made this change to the CMO definition in this notice accordingly. Although a charter school may exist as part of an LEA, it is unlikely that the LEA would be responsible for operating or managing the charter school. Therefore, we have not expressly included LEAs in the definition of CMO. We are retaining the EMO definition from the SIG NPR, and believe the emphasis on ''whole-school operation'' is sufficient to distinguish EMOs from other providers that may help with certain specific aspects of school operation and management, but that do not assume full responsibility for the entire school, as is required by the restart model.

The Department does not believe it is necessary to add new or additional reporting requirements for EMOs and CMOs, as their performance will be captured by the reporting metrics established in the final SIG notice. More specifically, SEAs and LEAs already must report on the intervention model used for each persistently lowest-achieving school, as well as outcome data for those schools, including outcome data disaggregated by student subgroups. As for providing SIG funding directly to CMOs and EMOs, the SIG program is a State formula grant program, and the Department must allocate funds to States in accordance with the requirements of section 1003(g) of the ESEA. Moreover, the only eligible SIG subgrantees are LEAs.

*Changes:* We have included the definitions of CMO and EMO in the definition of *restart model.* We have also modified the definition of CMO slightly to reflect the fact that a CMO may either operate or manage charter schools.

**Flexibility Under the Restart Model**

*Comment:* Several commenters recommended greater flexibility for LEAs implementing the restart model, including options to create magnet schools or ''themed'' schools. Another commenter, claiming that few charter school operators, CMOs, or EMOs have experience in ''whole school takeover,'' recommended permitting a phase-in approach to charter schools that would allow a charter school operator to start with two or three early grades and gradually ''take over'' an entire school.

*Discussion:* We believe that considerable flexibility regarding the type of school program offered is inherent in the restart model, which focuses on management and not on academic or curricular requirements. For example, restart operators would be free to create ''themed'' schools, so long as those schools permit enrollment, within the grades they serve, of any former student who wishes to attend. Additionally, LEAs have the flexibility to work with providers to develop the appropriate sequence and timetable for a restart partnership. Whether through ''phase-in'' models or complete conversions, the Department encourages SEAs and LEAs to take into account local context and need in making these decisions.

*Changes:* None.

*Comment:* Many commenters asked for clarification regarding various aspects of the restart model, including whether it includes conversion of existing schools, who would have authority over the operator of restart schools (*e.g.,* LEA, SEA, independent governing board, or a State or local authorizer), and whether a group of individuals (*e.g.,* teachers) could manage a restart school.

*Discussion:* We have changed the definition of restart model to clarify that it includes conversion of an existing school and not just strategies involving closing and reopening a school. In particular, we believe that conversion approaches may permit implementation of a restart model with minimal disruption for students, parents, and communities. In general, an LEA would be responsible for authorizing or contracting with charter school operators, CMOs, or EMOs for implementation of a restart model. The precise form of this contract or agreement would be up to State or local authorities and could include each of the alternatives mentioned by the commenters. However, regardless of the lines of authority, autonomy and freedom to operate independently from the State or LEA are essential elements of the restart model. A group of individuals, including teachers, would be eligible to manage a restart school so long as they met the local requirements of the rigorous review process included in the restart model.

*Changes:* We have revised the first sentence of the definition of restart model to read as follows: ''A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process.''

*Comment:* Several commenters recommended that the Department include specific elements of the turnaround and transformation models in the restart model, including improved curricula and instruction, student supports, extended learning time, community involvement, and partnering with community-based organizations. Similarly, one commenter noted that a restart model might permit a school to reopen as a charter school while changing little inside the school and urged the Department to require restart schools to use a model of reform that has been proven effective or that includes evidence-based strategies. Another commenter urged the Department to encourage use of the restart model to better serve high-risk students and help dropouts reconnect to school.

*Discussion:* We note that restart models could include nearly all of the specific reform elements identified under the turnaround and transformation models, but decline to require the use of any particular element or strategy. The restart model is specifically intended to give operators flexibility and freedom to implement their own reform plans and strategies. The required rigorous review process permits an LEA to examine those plans and strategies—and helps prevent an operator from assuming control of a school without a meaningful plan for turning it around—but should not involve mandating or otherwise requiring specific reform activities. However, the review process may require operators to demonstrate that their strategies are informed by research and other evidence of past success.

*Changes:* None.

*Comment:* One commenter recommended requiring the review process for CMOs and EMOs to include curriculum and staffing plans for meeting the needs of subgroups of students, including students with disabilities and limited English proficient students. Another commenter suggested that the review process include examining the extent to which a restart operator sought to ensure that restart schools would serve all former students by requiring States to collect data on the number of students from low-income families, students with disabilities, and limited English proficient students served by a restart school compared with the number of those students served by the school it replaced.

*Discussion:* Restart operators, by definition, have almost complete

freedom to develop and implement their own curricula and staffing plans, and the Department declines to place limits in this area in recognition of the core emphasis of the restart model on outcomes rather than inputs. The requirement to enroll any former student who wishes to attend the school will help to ensure that charter school operators, CMOs, and EMOs include serving all existing groups of students in their restart plans. Moreover, the effectiveness of these curricula and staff changes in meeting the needs of subgroups of students, including students with disabilities and limited English proficient students, will be measured by the metrics in the final SIG notice, which will include disaggregated achievement data by student subgroup. We encourage SEAs and LEAs to analyze these data to ensure that subgroups of students are properly included in restart schools and that their needs are addressed.

*Changes:* None.

*Comment:* A few commenters expressed concern that charter schools are not subject to the same oversight, regulation, or accountability as are regular public schools. Other commenters emphasized the importance, particularly in the case of charter school conversions, of ensuring autonomy, flexibility, and freedom from district rules and collective bargaining agreements, so that charter schools can implement their own cultures and practices.

*Discussion:* The restart model is specifically intended to give providers freedom from the rules and regulations governing regular public schools, in recognition of the fact that, while such rules and regulations may be effective in requiring certain kinds of inputs, such as teacher qualification requirements or a uniform length of the school day or year, they have not been demonstrated to have a significant impact on educational outcomes. Moreover, many successful charter schools have achieved outstanding results by changing these inputs, such as by hiring non-traditional but skilled teachers and by extending the length of the school day. The Department believes that the outcome metrics established in the final SIG notice will ensure accountability for the performance of restart schools.

*Changes:* None.

*Comment:* One commenter expressed concern that LEAs could use the restart model to close an existing charter school that, while successful in raising student achievement, remained in school improvement status under section 1116 of the ESEA.

*Discussion:* An existing charter school that is raising student achievement would be unlikely, under the requirements for identifying a State's persistently lowest-achieving schools, to be identified for school intervention, because those requirements include not only low levels of achievement, but also making little or no progress on improving those low levels of achievement in recent years. Moreover, this notice, as did the SIG NPR, provides flexibility for a school, such as a recently converted charter school that meets the requirements of the restart model, to use SIG funds to continue or complete reforms it began within the prior two years. On the other hand, it is possible, and in some cases appropriate, for an LEA to close a charter school that is not serving its students well and implement a new intervention model in the school.

*Changes:* None.

**School Closure**

*Comment:* A number of commenters expressed their general views regarding whether closing schools is an appropriate intervention for raising student achievement. Although no commenter advocated extensive use of this intervention, several acknowledged that school closure is sometimes necessary, particularly for schools with a long history of very low achievement, and noted that some States and LEAs have used this strategy successfully. Other commenters, however, expressed a number of logistical concerns with this intervention. Some noted that closing schools is often not feasible in rural areas in which the distance between schools is too great to make practical enrolling students from a closed school in higher-achieving schools. Others noted that many LEAs do not have multiple schools at the same grade level in which to enroll students from a closed school. Still others noted capacity issues that would prevent schools from accommodating additional students or the lack of high-achieving schools in which to enroll students from a closed school. One commenter noted that this intervention would not be feasible on a large scale in large, urban LEAs with limited resources and substantial numbers of low-achieving students. Another commenter recommended that this intervention be limited to those LEAs with the capacity to enroll affected students in other, higher-achieving schools.

*Discussion:* School closure is just one of four school intervention models from which an LEA may choose to turn around or close its persistently lowest-achieving schools, and the Department recognizes that it may not be appropriate or workable in all circumstances. To clarify this, we have revised the definition of *school closure* in this notice to clarify that this option is viable when there are re-enrollment options in higher-achieving schools in the LEA that are within reasonable proximity to the closed school that can accommodate the students from the closed school. To make this option more viable, we have changed ''high-achieving schools'' to ''higher-achieving schools.''

*Changes:* We have included the following clarifying language in the definition of *school closure:* ''School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.''

*Comment:* A number of commenters expressed the opinion that a school should never be closed if that option displaces students and disrupts communities. The commenters noted the importance of having a neighborhood school that serves as the cornerstone of a community. One commenter noted that, when students are moved to a school in a new neighborhood, parents often find it more difficult to feel a sense of belonging at the school or ownership of their child's education. Another commenter noted that school closings often anger parents, exacerbate overcrowding, increase safety and security concerns in neighboring schools, and place students who need specific supports in schools that may not be able to provide those supports. One commenter expressed concern that closing a school may not address the educational needs of specific students, which may be masked within a higher-achieving school. Another commenter suggested the need for an ''educational impact statement'' before a school is closed, and one suggested that an LEA have a detailed plan demonstrating how support would be provided to students and their families transitioning to different schools. Several commenters suggested that the final requirements provide for parent and community input before a school is closed.

*Discussion:* The Department recognizes and understands that school closures, by definition, displace students and disrupt communities and are among the most difficult decisions

faced by local authorities. However, each of the four school intervention models is predicated on the potentially positive impact of ''disruptive change'' on student educational opportunities, achievement, and other related outcomes. Schools targeted for closure under this notice will likely have served their communities poorly for many years, if not decades, as measured by such factors as student achievement, graduation rates, and college enrollment rates. Moreover, such schools also will likely have proven impervious to positive change despite years of identification for improvement, corrective action, or restructuring under the ESEA as well as other previous reform efforts. The Department believes that, when such schools prove unwilling or unable to change, closure must be considered. Many communities have experience in closing, consolidating, or otherwise changing the structure of their existing schools and have their own processes and procedures for obtaining public input and approval for such changes, including assessment of the impact on students, families, neighborhoods, other schools, and transportation requirements, as well as for developing plans to facilitate smooth transitions for everyone involved. Although the Department encourages LEAs and SEAs to involve students, parents, educators, the community, and other stakeholders in the process, we decline to add any additional requirements in this area of appropriate local discretion.

To address the disruptiveness school closure may cause to a community, we have modified the definition of *school* closure, as noted in response to the prior comment, to clarify that closure should entail re-enrolling students from the closed school in other schools in the LEA that are within reasonable proximity to the closed school. Finally, we note that school closure is just one of the four school intervention models available under the terms of this notice. LEAs and communities that wish to preserve a neighborhood school may do so by implementing a turnaround, restart, or transformation model.

*Changes:* None.

*Comment:* Several commenters recommended that a school not be closed unless an LEA opens a new school in its place. One commenter specifically suggested closing a school in phases and reopening it as a new school. Under this concept, an LEA would permit both students and staff who choose to do so to remain in the school but the school would enroll no new students. At the same time, according to the commenter, other schools would be better prepared to absorb students who wish to transfer, logistical and facility issues would be minimized, and the new school would have adequate time to recruit and train high-quality staff and develop its instructional program.

*Discussion:* The Department has revised the language in the definition of *school closure* to recognize the need to have available options for accommodating the educational needs of the students in a closed school, but does not believe it is necessary to require an LEA to open a new school in place of the closed school. Many LEAs participating in the SIG program have under-utilized or under-enrolled schools that may readily accommodate students from a closed school; requiring such LEAs to open new schools simply does not make sense. However, an LEA that chooses to reopen a new school would be free to do so, either on its own or as part of a turnaround or restart model.

*Changes:* None.

*Comment:* One commenter suggested that the Department provide incentives for the development of successful charter schools in the areas in which schools are closed. Specifically, the commenter recommended that the Department require that an LEA that partners with a CMO in order to serve the area in which the LEA is closing schools receive a priority for SIG funds.

*Discussion:* SIG funds are intended to provide support to LEAs for school improvement efforts targeted primarily at the persistently lowest-achieving schools in a State, and not at providing incentives for the creation of new schools, charter or otherwise, that serve the same general attendance area. However, the restart model (as defined in this notice) may be used by LEAs in situations where the goal is to replace a persistently lowest-achieving school with a charter school.

*Changes:* None.

*Comment:* One commenter suggested that, in highlighting which schools may be available to enroll students from a closed school, the Department specifically mention magnet schools along with charter schools.

*Discussion:* Decisions about the schools to which students from closed schools may transfer are best left to the LEAs selecting the school closure option. The language in the definition of *school closure,* as in the SIG NPR, specifically mentions charter schools only because not all available charter schools might be operated by the LEA that is closing a neighborhood public school and, thus, might not be initially included in an LEA's plan for transferring students from the closed school. This is not a concern for magnet schools and, thus, the Department declines to make the requested change.

*Changes:* None.

*Comment:* One commenter recommended that the Department require that, before an LEA may enroll students from a closed school in another school, the LEA require a prospective receiving school, including a charter school, to demonstrate a record of effectiveness in educating its existing students and the capacity to integrate and educate new students from closed schools. The commenter emphasized the importance of this latter point, noting that merely because a school is high-achieving does not mean that it is equipped to help additional students from the lowest-achieving schools succeed while maintaining the quality of its current educational program.

*Discussion:* The Department believes that the requirement to enroll students from a closed school in a higher-achieving school responds to the concerns of this commenter. The Department believes that such higher-achieving schools are likely in nearly all circumstances, to provide a better education for any new students than was available in the closed school.

*Changes:* We have added language to the definition of *school closure* clarifying that school closure entails re-enrolling students from the closed school in other schools in the LEA that are higher achieving. We have also added clarifying language that such schools may be new schools for which achievement data are not available.

*Comment:* Several commenters questioned how SIG funds may be used in closing a school. One commenter noted the importance of gaining community input and that the costs for closing a school may include costs associated with conducting parent and community meetings. Another commenter recommended that allowable costs include academic supports for struggling students who are enrolled in new schools.

*Discussion:* LEAs may use SIG funds to pay reasonable and necessary costs related to closing a persistently lowest-achieving school, including the costs associated with parent and community outreach. However, SIG funds may not be used to serve students, struggling or otherwise, in the schools to which they transfer, unless those schools are Title I schools. The Department will include additional examples of permissible uses of SIG funds in closing a school in guidance accompanying the application package for SIG funds.

*Changes:* None.

**Transformation Model**

**General Comments**

*Comment:* Many commenters expressed strong support for the transformation model. One commenter, for example, described it as ''a balanced, comprehensive approach,'' and another described it as ''a supportive and constructive approach.'' Still another commenter stated that it ''provides the greatest hope for promoting genuine school improvement.'' Several commenters noted that the transformation model would be, in reality, the only choice among the four proposed interventions, especially for many rural school districts.

A few commenters responded that the transformation model would still not enable some communities, particularly those with difficult demographics, to make adequate yearly progress. Other commenters worried that, if not monitored carefully, the transformation model would become like the ''other'' restructuring option under section 1116(b)(8)(B)(v) of the ESEA, perceived as the easiest (but least meaningful) way to intervene in a struggling school. One of these commenters recommended adding strong language to make clear that the transformation model is not an incremental approach and that, except in the area of changing staff, the model is as rigorous as the turnaround model.

*Discussion:* We appreciate the commenters' support. We believe the transformation model holds tremendous promise for reforming persistently lowest-achieving schools by developing and increasing teacher and school leader effectiveness, implementing comprehensive instructional reform strategies, increasing learning time and creating community-oriented schools, and providing operating flexibility and sustained support. Assuming the activities that support these components are implemented with fidelity, the transformation model represents a rigorous and wholesale approach to reforming a struggling school, unlike the manner in which the ''other'' restructuring option in section 1116 of the ESEA has often been implemented.

*Changes:* To strengthen the transformation model, we have made a number of changes that we discuss in the following paragraphs in our responses to specific comments.

*Comment:* One commenter recommended affording greater flexibility to LEAs in implementing the transformation model by allowing them to choose which activities are ''required'' and which are ''permissible'' within the four components. The commenter noted that LEAs with persistently lowest-achieving schools may not have the teacher or leader capacity or system to support, monitor, and sustain reforms across all of their schools. The commenter advocated for creating systems at the district level that enable LEAs to provide support at each school.

*Discussion:* We decline to make the requested changes. We have carefully reviewed the required activities within the four components of the transformation model and have concluded that each is necessary to ensure the rigor and effectiveness of the model; therefore, we continue to require each one. An LEA, of course, may implement any or all of the permissible activities as well as other activities not described in this notice.

In anticipation of receiving unprecedented amounts of SIG funds, SEAs and LEAs should begin now to plan for how they can use those funds most effectively by putting in place the systems and conditions necessary to support reform in their persistently lowest-achieving schools. Despite the best preparation, however, we know that not every LEA with persistently lowest-achieving schools has the capacity to implement one of the four interventions in this notice in each such school. As indicated in the SIG NPR, therefore, an LEA that lacks the capacity to implement an intervention in each persistently lowest-achieving school may apply to the SEA to implement an intervention in just some of those schools.

*Changes:* None.

*Comment:* One commenter recommended adding ''graduation rates,'' rated equally with test scores, to assess student achievement in evaluating staff, ensuring that a school's curriculum is implemented with fidelity, and providing operating flexibility. The commenter also recommended making increasing graduation rates a required activity.

*Discussion:* We agree with the commenter that increasing high-school graduation rates is vital to improving student achievement, particularly in our Nation's ''dropout factories.'' We are, accordingly, adding increasing high school graduation rates in three provisions of the transformation model to make clear that it is also a goal of the interventions in this notice. We are also making a corresponding change in the turnaround model. In addition, we are defining ''persistently lowest-achieving schools'' to include high schools that have had a graduation rate below 60 percent over a number of years. Through these changes, we hope to identify high schools with low graduation rates that would implement one of the interventions in this notice.

*Changes:* We have added increasing high school graduation rates in three provisions of the transformation model: paragraphs (d)(1)(i)(B)(*1*); (d)(1)(i)(C); and (d)(4)(i)(A). We also made a corresponding change to the turnaround model in paragraph (a)(1)(i). In addition, we have included high schools that have had a graduation rate below 60 percent over a number of years in the definition of *persistently lowest-achieving schools.*

*Comment:* One commenter recommended that the Department require an LEA to set up an organizational entity within the LEA to be responsible and held accountable for rapid improvement in student achievement in schools implementing the transformation model in order to ''expedite the clearing of bureaucratic underbrush'' that can impede the model's effectiveness.

*Discussion:* Although nothing in this notice would preclude an LEA from establishing an organizational entity responsible for ensuring rapid improvement in student achievement in schools implementing the transformation model, we decline to require the establishment of such an entity. Evidence of an LEA's commitment to support its schools in carrying out the required elements of the transformation model is a factor that an SEA must consider in evaluating the LEA's application for SIG funds.

*Changes:* None.

**Developing and Increasing Teacher and School Leader Effectiveness**

*Comment:* A number of commenters supported the emphasis in the transformation model on strong principals and teachers, noting that they are critical to transforming a low-achieving school. Commenters cited specific provisions that they supported, such as ongoing, high-quality job-embedded professional development; strategies to recruit, place, and retain effective staff; increasing rigor through, for example, early-college high schools; extending learning time; emphasizing community-oriented schools; increased operating flexibility; and sustained support from the LEA and SEA.

*Discussion:* The Secretary appreciates the commenters' support.

*Changes:* None.

*Comment:* One commenter suggested adding the word ''ensuring'' in the heading of the component of the transformation model that requires developing teacher and school leader effectiveness. Another suggested changing the heading to ''providing

teachers and school leaders with the resources and tools needed to be effective.''

*Discussion:* We decline to make these changes. First, we do not believe that a school can *ensure* teacher and school leader effectiveness. We do believe, however, that a school can take steps to *improve* teacher and leader effectiveness. Second, we note that eligible schools in LEAs that receive SIG funds—all of which are among the lowest-achieving schools in a State—will have very large amounts of resources to implement the transformation model or one of the other school intervention models. Accordingly, we do not believe lack of resources will be a barrier for reforming the persistently lowest-achieving schools in a State. Moreover, there is a significant requirement that an LEA provide ongoing, high-quality, job-embedded professional development for all staff in a school implementing the transformation model. Principals, teachers, and school leaders, therefore, should have sufficient support to do their jobs.

*Changes:* We have revised the heading in paragraph (d)(1) to read: ''Developing and improving teacher and school leader effectiveness.''

*Comment:* Many commenters, many of whom were principals or represented principals, opposed the requirement to replace the principal. A number of commenters commented that such a decision should be made locally, based on local data and circumstances in individual schools, rather than being mandated by the Federal Government. One commenter, although acknowledging the importance of effective school leadership, asserted that a school's underperformance should not necessarily be blamed on the principal. The commenter cited other salient factors, such as whether the principal has the authority needed to turn a school around or whether the principal is laying a foundation for improvements not yet reflected in test scores. One commenter suggested that a principal not be removed until the principal's performance has been reviewed. Others suggested that, rather than replacing the principal immediately, the requirements permit an LEA to offer comprehensive support and leadership training for school leaders and other staff to assist them in making the significant changes needed to transform a school. Several commenters suggested removing the principal unless the person commits to and is held accountable for a turnaround plan that requires, for example, working with a partner management organization or other entity skilled in turning around struggling schools. Another commenter suggested permitting flexibility with respect to removing the principal in cases warranted by, for example, the size and geography of a school or LEA, the cause of the academic failure, the specific solutions being sought, or other barriers to removal.

*Discussion:* We refer readers to the earlier section of these comments and responses titled ''Principal and Staff Replacement'' in which we respond to similar public comments about the principal replacement requirement under the turnaround model.

*Changes:* None.

*Comment:* One commenter recommended a three-pronged approach to defining principal effectiveness: Evidence of improved student achievement; changes in the number and percentage of teachers rated as effective and highly effective; and assessment of a principal's highest priority actions and practices.

*Discussion:* Generally, the Department agrees that multiple measures, including the use of student achievement data, should be used to evaluate principal effectiveness. Accordingly, we have revised proposed section I.A.2.d.i.A.*1* in the SIG NPR (new paragraph (d)(1)(i)(B)(*1*) to allow an LEA to use, in addition to data on student growth, observation-based assessments and ongoing collections of professional practice that reflect student achievement and increased high-school graduation rates to evaluate principal effectiveness.

*Changes:* We have modified paragraph (d)(1)(i)(B)(*1*) regarding evaluation systems for teachers and principals to require that those systems take into account student growth data as a significant factor as well as other factors ''such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduation rates.''

*Comment:* Several commenters cited the shortage of principals, particularly in rural areas, as a reason to eliminate the requirement to remove the principal in a school using the transformation model. One commenter suggested hiring a ''turnaround leader'' or contracting with an external lead partner instead of replacing the principal.

*Discussion:* We refer readers to the earlier section of these comments and responses titled ''Principal and Staff Replacement'' where we respond to public comments about the principal replacement requirement under the turnaround model.

*Changes:* None.

*Comment:* A number of commenters suggested that a principal who has been recently hired to turn around a school should not be removed.

*Discussion:* The commenters might have overlooked the fact that proposed section I.B.1 in the SIG NPR allowed schools that have ''implemented, in whole or in part within the last two years, an intervention that meets the requirements of the turnaround, restart, or transformation models'' to ''continue or complete the intervention being implemented.'' Thus, a recently hired principal who was hired to implement a school intervention model that meets some or all of the elements of one of the interventions in this notice would not have to be replaced for purposes of a transformation model. We have retained this flexibility in this notice.

*Changes:* None.

*Comment:* Many commenters reacted to the requirement in the SIG NPR to use evaluations that are based in significant measure on student growth to improve teachers' and school leaders' performance. A few commenters supported the requirement; most opposed it for a number of reasons. Many commenters objected specifically to assessing teacher effectiveness using testing instruments not designed for that purpose. One commenter noted that standardized assessments are designed to measure students' ready retrieval of knowledge and do not accurately attribute student learning to particular lessons, pedagogical strategies, or individual teachers. In addition, the commenter noted that such assessments do not measure qualities like student motivation, intellectual readiness, persistence, creativity, or the ability to apply knowledge and work productively with others. One commenter asserted that State assessments are generally of low quality and measure a narrow range of student learning. The commenter also noted that assessments do not acknowledge the contributions (or lack thereof) of others, such as prior teachers, towards student achievement. Two commenters argued that State assessments do not provide information about the conditions in which learning occurs and over which a teacher has no control, such as class size, student demographics, or instructional resources. One commenter asserted that State assessments fail to capture academic growth with respect to students with disabilities. A number of commenters proposed other academic and nonacademic measures for evaluating teachers and school leaders, such as standards-based evaluations of practice that include such criteria as

observations of lesson preparation, content, and delivery; innovation in teaching practices; analyses of student work and other measures of student learning, such as writing samples, grades, goals in individualized education programs for students with disabilities, and ''capstone'' projects such as end-of-course research papers; assessment of commitment and ability to use feedback and data to learn and improve practices; one-on-one teaching; staff leadership and mentoring skills; conflict resolution skills; crisis management experience; extra-curricular roles and contributions to a school; and relationships with parents and the community.

*Discussion:* We respect and agree with the commenters' concerns that student achievement data alone should not be used as the sole means to evaluate teachers and principals. We must develop and support better measures that take into account student achievement and more accurately measure teacher and principal performance. Accordingly, we have revised the transformation model's evaluation systems provision to require that these systems take into account student growth data as a significant factor, but also include other factors ''such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduation rates.'' We have also clarified that those systems must be rigorous, transparent, and equitable and that they must be designed and developed with teacher and principal involvement.

Nonetheless, it is important to note that the Secretary believes that student achievement data must be included as a significant factor in evaluations of teacher and principal effectiveness. We are confident that the legitimate concerns of the commenters regarding use of student data can be addressed.

*Changes:* We have modified paragraph (d)(1)(i)(B) regarding evaluation systems for teachers and principals in several respects. First, we modified paragraph (d)(1)(i)(B) to require that evaluation systems be rigorous, transparent, and equitable. Second, we modified paragraph (d)(1)(i)(B)(*1*) to require that those systems take into account student growth data as a significant factor but also include other factors ''such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high school graduation rates.'' Third, we added paragraph (d)(1)(i)(B)(*2*) to require that evaluation systems be designed and developed with teacher and principal involvement.

*Comment:* A number of commenters raised issues related to collective bargaining and the transformation model. Several commenters objected to the perceived requirement to establish a performance pay plan based on student outcomes, noting that collective bargaining agreements and, in some cases, State laws often prohibit such a plan. Two others noted that, because union contracts limit a principal's control over staffing, principals should not be held accountable for school performance results. At least one commenter expressed concern that these collective bargaining barriers could preclude implementation of the transformation model.

*Discussion:* In general, we refer readers to the earlier section of these comments and responses titled ''Principal and Staff Replacement'' where we respond to similar public comments regarding collective bargaining as it relates to the turnaround model. In addition, we note that the transformation model does not require that an LEA establish a performance pay plan for teachers or principals. Rather, an LEA must identify and reward school leaders, teachers, and other staff who, in implementing the transformation model, have increased student achievement and graduation rates. One way of meeting this requirement would be through performance pay. An LEA has the flexibility to devise other means that meet this requirement.

*Changes:* None.

*Comment:* One commenter, responding to the proposed requirement to remove staff who fail to contribute to raising student achievement, recommended that this provision be deleted. The commenter noted that this provision would make it very difficult to attract the most highly qualified teachers and principals to the persistently lowest-achieving schools. The commenter suggested that extensive professional development, rather than removal, be required for staff in schools in which achievement does not improve.

*Discussion:* In general, we refer readers to the section of these comments and responses titled ''Principal and Staff Replacement'' where we respond to similar comments regarding removal of the staff replacement requirement under the turnaround model.

*Changes:* We have modified paragraph (d)(1)(i)(C) regarding removing staff who, in implementing a transformation model, have not contributed to increased student achievement and high school graduation rates to make clear that removal should only occur after an individual has had multiple opportunities to improve his or her professional practice and has still not contributed to increased student achievement and increased high school graduation rates.

*Comment:* Several commenters objected to the Secretary's proposal to require an LEA to make ''high-stakes'' tenure and compensation decisions through which the LEA would ''identify and reward school leaders, teachers, and other staff who improve student achievement outcomes and identify and remove those who do not.'' The commenters thought this standard was too imprecise. They noted that teacher compensation, tenure, and dismissal are, for the most part, governed by State laws and/or collective bargaining agreements that cannot be simply overturned by a Federal grant program. One of the commenters suggested that this provision be modified by adding, at the end, the phrase ''in full accordance with local and State laws, including collective bargaining agreements.''

*Discussion:* In general, we refer readers to the section of these comments and responses titled ''Principal and Staff Replacement'' where we respond to similar comments regarding collective bargaining issues as they relate to the turnaround model. In addition, we note that no LEA is required to apply for a School Improvement Grant. Those that do will receive significant resources to support their efforts to reform their most struggling schools, but they also must have the ability to implement the required components of whichever intervention they choose. Accordingly, we decline to make the recommended changes.

*Changes:* None.

*Comment:* A number of commenters provided additional examples of what professional development of staff under the transformation model should entail, such as: Addressing the needs of students with disabilities and limited English proficient students; creating professional learning communities within a school; providing mentoring; involving parents in their child's education, especially parents of limited English proficient students and immigrant children; understanding and using data and assessments to improve and personalize classroom practice; and implementing adolescent literacy and mathematics initiatives.

*Discussion:* We appreciate the many excellent suggestions for additional areas on which professional development should focus. With one exception, we decline to add examples.

We could never list all relevant topics for strong professional development, which must be tailored to the needs of staff in particular schools, and we would not want to suggest that topics not listed were, thus, less worthy of addressing.

*Changes:* We have added a permissible activity in paragraph (d)(2)(ii)(C) under ''comprehensive instructional reform strategies'' to highlight the need for additional supports and professional development for teachers and principals in implementing effective strategies to educate students with disabilities in the least restrictive environment and to ensure that limited English proficient students acquire language skills necessary to master academic content.

*Comment:* One commenter noted that the requirement to provide staff with ongoing, high-quality, job-embedded professional development was silent with respect to the impact of professional development on instruction. The commenter pointed to an apparent inconsistency with the emphasis in the permissible activity that suggested that LEAs be required to institute a system for measuring changes in instructional practices resulting from professional development. Because the commenter values professional development designed to improve instruction, the commenter recommended that the Secretary require a school to have a system for measuring changes in instructional practices resulting from professional development in order to evaluate its efficacy.

*Discussion:* We believe that the requirement to provide ongoing, high-quality, job-embedded professional development to staff in a school is clearly tied to improving instruction in multiple ways. First, the requirement that professional development be ''job-embedded'' connotes a direct connection between a teacher's work in the classroom and the professional development the teacher receives. Second, the examples of topics for professional development, such as subject-specific pedagogy and differentiated instruction, are directly related to improving the instruction a teacher provides. Third, professional development must be aligned with the school's comprehensive instructional program. Finally, the articulated purpose of professional development in paragraph (d)(1)(i)(D) of the transformation model is to ensure that a teacher is ''equipped to facilitate effective teaching and learning'' and has the ''capacity to successfully implement school reform strategies.'' Although we believe that instituting a system for measuring changes in instructional practices resulting from professional development can be valuable, we decline to require it as part of this program. We believe that the specificity in the nature of the professional development required for a transformation model is sufficient to ensure that it, in fact, results in improved instruction.

*Changes:* None.

*Comment:* One commenter recommended that the Department add a requirement that professional development be designed to ensure that staff of a school using the transformation model can work effectively with families and community partners. The commenter reasoned that, given the emphasis on working with families and community partners to improve the academic achievement of students in a school, staff must know how to work with them.

*Discussion:* We decline to make the suggested change. We agree with the commenter that family and community involvement in a school is critical to the school's ultimate success and have included, as both required and permissible activities, a variety of provisions to address this important need. We would expect professional development to include appropriate training to ensure, as the commenter suggests, that staff are well equipped to facilitate family and community involvement. We do not believe, however, that we should try to expressly highlight each and every appropriate topic of high-quality professional development in this notice.

*Changes:* None.

*Comment:* One commenter suggested that financial incentives are not necessarily the most motivating factor in retaining high-quality staff. Rather, the commenter stated that the culture of a school—*i.e.,* quality relationships with other teachers, the school climate, the leadership of the principal, and the potential for professional growth—is often a greater motivator.

*Discussion:* We agree that financial incentives are not the only motivating factor in attracting staff to a school or retaining them in the school. We hope that changes in the culture of a school that result from implementing the interventions established in this notice play a large role in attracting, placing, and retaining high-quality staff. As a result, in both the transformation and turnaround models, we have provided examples of several strategies to recruit, place, and retain high-quality staff.

*Changes:* We have added examples of strategies designed to recruit, place, and retain staff, including ''financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions'' in paragraphs (d)(1)(i)(E), with respect to the transformation model, and (a)(1)(iii), with respect to the turnaround model. We have also made clear that those strategies must be designed to recruit, place, and retain staff who have the skills necessary to meet the needs of the students in the schools implementing a transformation or turnaround model, respectively.

*Comment:* Several commenters supported the concept of ''mutual consent''—that is, ensuring that a school is not required to accept a teacher without the mutual consent of the teacher and the principal, regardless of the teacher's seniority. One commenter recommended making ''mutual consent'' a required component of both the turnaround model and the transformation model. Other commenters, however, opposed any mention of ''mutual consent,'' even as a permissible activity. One asserted that the concept conflicts with the provision in section 1116(d) of the ESEA that precludes interventions in Title I schools from affecting the rights, remedies, and procedures afforded school employees under Federal, State, or local laws or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between employees and their employers.

*Discussion:* Like several commenters, the Secretary supports and encourages the use of mutual consent. The Secretary considers mutual consent to be a positive example of LEAs' partnering with unions to bring change to the Nation's persistently lowest-achieving schools. That said, we decline to require mutual consent as a part of the transformation model because mutual consent policies and other similar agreements are best resolved at the State and local levels in the context of existing collective bargaining agreements.

*Changes:* None.

*Comment:* One commenter recommended that the Secretary add a requirement that, in the event budget cuts occur, a principal be allowed to lay off teachers on the basis of performance rather than seniority. The commenter noted that this provision could be an important lever for obtaining positive changes to collective bargaining agreements that would help low-achieving schools attract and retain effective staff.

*Discussion:* We decline to make the suggested change. Although we support the need to modify collective bargaining

agreements if they impede efforts to attract and retain qualified staff in the persistently lowest-achieving schools, we do not believe we can or should prescribe the specific terms of those agreements.

*Changes:* None.

**Comprehensive Instructional Reform Strategies**

*Comment:* Several commenters suggested that the Department revise the comprehensive instructional reform component of the transformation model by modifying or expanding the provision requiring the use of individualized student data to inform and differentiate instruction. One commenter suggested clarifying that individualized student data are to be used to meet students' academic needs while another commenter suggested clarifying that the data should be used to address the needs of ''individual'' students. Other commenters suggested expanding this provision to include non-academic data such as chronic absenteeism, truancy, health (vision, hearing, dental, and access to primary care), safety, family engagement and well-being, and housing. The commenter suggested that these data be used, in partnership with parents and other community partners, to address other student needs.

*Discussion:* The purpose of this section of the transformation model is to improve instruction, and we agree that adding the word ''academic'' is a helpful clarification. Although we also agree that non-academic data can play an important role in identifying other student needs that can affect learning, local school administrators, working with parents and community partners, are in the best position to determine how to address those needs. Therefore, we decline to add a requirement that a school examine non-academic data.

*Changes:* We have added the word ''academic'' in paragraph (d)(2)(i)(B) to clarify that the continuous use of student data to inform and differentiate instruction must be promoted to meet the academic needs of individual students. We made a corresponding change in paragraph (a)(1)(vii) regarding the turnaround model.

*Comment:* One commenter noted that requiring instructional programs to be ''evidence-based'' instead of ''research-based'' would enable the use of programs for which there is accumulated evidence that does not meet the current ESEA definition of ''scientifically based research.''

*Discussion:* We agree with the commenter that an LEA should only implement instructional programs for which there is a sufficient body of evidence supporting improved student achievement. We do not believe a change is necessary, however, because we do not use the term ''scientifically based research'' and, therefore, do not invoke the stringent requirements in section 9101(37) of the ESEA.

*Changes:* None.

*Comment:* One commenter recommended that the Department add a provision that would require a school to identify ''off-track and out-of-school youth, through analysis and segmentation of student data,'' and develop and implement education options to put them back on track to graduate. The commenter stated that, once students are off track to graduating on time, their likelihood of graduating is often as low as 20 percent. Moreover, in the 2,000 high schools in the Nation with four-year graduation rates of 60 percent or less, up to 80 percent of ninth graders are significantly behind in skills or credits. Several other commenters suggested including stronger support for re-enrolling youth who have left high school as a critical part of increasing graduation rates.

*Discussion:* We agree that programs and strategies designed to re-engage youth who have dropped out of high school without receiving a diploma are necessary in increasing graduation rates. Accordingly, we are modifying the notice to address this need. We also hope that an LEA's extension or restructuring of the school day to add time for strategies such as advisory periods to build relationships between students, faculty, and other staff will help to identify students who are struggling and to secure for them the necessary supports sufficiently early to prevent their dropping out of school. Finally, as noted earlier, we have added references to increased high school graduation rates in four provisions to make clear that implementation of the models in high schools must focus on increasing graduation rates as well as improved student achievement.

*Changes:* We have modified paragraph (d)(2)(ii)(E)(*3*) to add re-engagement strategies as an example of a way to increase high school graduation rates. We have also added paragraph (d)(2)(ii)(E)(*4*) suggesting that permissible comprehensive instructional reform strategies may include establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

*Comment:* A number of commenters suggested that the Department include additional required or permissible activities for carrying out comprehensive instructional reform strategies. Specifically, two commenters recommended that the Department require schools to conduct periodic reviews so as to ensure that the curriculum is being implemented with fidelity (rather than merely permitting this activity) and improve school library programs. Other commenters suggested expanding the permissible activities in secondary schools to include learning opportunities that reflect the context of the community in which the school is located, such as service learning, place-based education, and civic and environmental education. The commenters also recommended clarifying that improving students' transition from middle to high schools should include family outreach and parent education. Another commenter suggested that the Department expand the list of permissible activities in elementary schools to include providing opportunities for students to attend foreign language immersion programs.

*Discussion:* The Secretary agrees that there are any number of important activities that would be appropriate to address in a transformation model. As described in this notice, the transformation model, by necessity, focuses on several broad strategies. However, nothing precludes local school leaders from expanding the model as necessary to address other factors needed to respond to the specific needs of students in the school.

*Changes:* We have included in this notice a definition of *increased learning time* that would permit many, if not all, of the commenters' suggestions. For example, that definition makes clear that a school may increase time to teach core academic subjects, including, for example, civics and foreign languages, and to provide enrichment activities such as service learning and experiential and work-based learning opportunities.

*Comment:* One commenter recommended that the Department add the implementation of technology-based solutions to the list of permissible activities, while another commenter recommended that the Department add online instructional services offered by a for-profit or non-profit entity as an example of a comprehensive, research-based instructional program.

*Discussion:* The Secretary agrees that technology can be an important tool for supporting instruction, and we are adding as a permissible activity the suggestion to use and integrate technology-based supports and interventions as part of a school's instructional program. Although online instructional programs might be part of

a school's system of technology-based supports, we decline to mention it specifically. Online instructional programs, if research-based, are one of many ways to meet the needs of students in struggling schools, particularly to provide courses or programs that schools in rural or remote areas cannot otherwise provide. We cannot mention in this notice, however, each and every type of instructional program.

*Changes:* We have added as a permissible activity in paragraph (d)(2)(ii)(D) using and integrating technology-based supports and interventions as part of a school's instructional program.

*Comment:* One commenter recommended that the Department add to the transformation model the strategy to reorganize the school with a new purpose and structure it as a magnet school, a thematic school, or a school-community partnership.

*Discussion:* We decline to include this change in the transformation model, a model that uses the existing staff in a school and who would likely not have the expertise to implement an instructional program with a whole new purpose.

*Changes:* None. However, we have clarified in paragraph (a)(2)(ii) that a turnaround model may include a new school model (*e.g.*, themed, dual language academy).

**Increasing Learning Time and Creating Community-Oriented Schools**

*Comment:* Several commenters expressed support overall and for various activities of the ''Increasing learning time and creating community-oriented schools'' component of the transformation model, including the references to school climate, internships, and community service.

*Discussion:* We appreciate the commenters' support. We are including some of these activities in the definition of *increased learning time* that also applies to the Stabilization Phase II and Race to the Top programs, rather than listing them as specific elements of the ''increasing learning time and creating community-oriented schools'' component. They have no less importance, however.

*Changes:* We have included in the notice a definition of *increased learning time* that includes opportunities for enrichment activities for students, such as service learning and community service.

*Comment:* Several commenters suggested that the Department highlight the importance of certain activities by revising the heading of this component. For example, one commenter suggesting revising the heading to emphasize family involvement while another commenter suggested revising it to specifically reference students' social and emotional needs. A third commenter suggested expanding the title to include ''using research-based methods to deliver comprehensive services to students.''

*Discussion:* We decline to make these changes. Although we embrace the need to address not just the academic needs of students but also how their social and emotional needs affect their learning and to emphasize the importance of family involvement, we believe it is preferable to keep the heading for this component more general. The headings for each of the components in the transformation model are deliberately broad so as to cover a number of important activities, and the fact that a specific activity is not in a heading is not a reflection of that activity's importance. We believe the list of permissible activities illustrates various ways in which a school can address students' social and emotional needs and involve families in their child's education.

*Changes:* None.

*Comment:* Several commenters suggested that the Department highlight the importance of certain activities by making them required. For example, some commenters recommended expanding the required activities to include a comprehensive guidance curriculum delivered by a school counselor who is certified by the State department of education; partnering with parents, faith-based and community-based organizations, and others to provide comprehensive student services; more time for social and emotional learning; and improving school climate. Another commenter recommended requiring that the transformation model include the components of the Comprehensive School Reform Demonstration program.

Other commenters suggested adding references to high school study-abroad programs as an example of a student enrichment activity and activities designed to reduce out-of-school suspensions and expulsions as a strategy for addressing school climate.

*Discussion:* As we noted earlier, we agree that there are any number of important activities that would be appropriate to address in a transformation model. As described in this notice, the transformation model, by necessity, focuses on several broad strategies. However, there is nothing to prevent local school leaders from expanding the model as necessary to address other factors needed to respond to the specific needs of students in the school.

*Changes:* None.

*Comment:* One commenter suggested that the Department define ''community-oriented schools'' as schools that partner with community-based organizations to provide necessary services to students and families using research-based methods, which might include: a school-based, on-site coordinator; comprehensive school- and student-level needs assessments; community-assets assessments and identification of potential partners; annual plans for school-level prevention and individual intervention strategies; delivery of an appropriate mix of prevention and intervention services; data collection and evaluation over time, with on-going modifications of services; and/or other research-based components. Another commenter suggested removing the word ''oriented'' and using the term ''community-schools,'' which the commenter indicated is more commonly known.

*Discussion:* Although we appreciate the commenters' interest in ensuring greater clarity on the concept of ''community-oriented schools,'' we decline to make the suggested changes. The components of ''community-oriented schools'' will vary school by school depending on student and community needs and resources. There is nothing in the notice that would prevent local school leaders from undertaking any of the strategies in the definition the commenters proposed if necessary to respond to the specific needs of students in the school.

*Changes:* None.

*Comment:* Some commenters suggested that the Department add ''community-based organization'' and ''workforce systems, specifically nonprofit and community-based organizations providing employment, training, and education services to youth'' to the list of entities with which an LEA or school may choose to partner in providing enrichment activities during extended learning time.

*Discussion:* In the SIG NPR, we listed universities, businesses, and museums as examples of entities with which a school could partner in providing enrichment activities during extended learning time. In this final notice, we are instead including a definition of *increased learning time* that applies to the Stabilization Phase II, Race to the Top, and SIG programs. That definition no longer includes examples of appropriate partnership entities, because there may be any number of

organizations or entities in a particular community that might be appropriate partners.

*Changes:* In the definition of *increased learning time*, we have included the following: ''(b) Instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations;''.

*Comment:* One commenter suggested that the reference to ''parents,'' in the list of entities with which schools might partner to create safe school environments that meet students' social, emotional, and health needs, should include ''parent organizations.''

*Discussion:* We agree with this suggestion and are adding a reference to parent organizations.

*Changes:* We have revised the permissible activity in paragraph (d)(3)(ii)(A) regarding creating safe school environments to include a reference to partnering with parents and ''parent organizations,'' along with faith- and community-based organizations, health clinics, other State and local agencies, and others.

*Comment:* One commenter recommended that the Department define ''family engagement'' and requiring the use of certain family-engagement mechanisms, including family-engagement coordinators at school sites, home visitation programs, family literacy programs, and parent leadership programs. Another commenter recommended defining ''community engagement'' as systemic efforts to involve parents, community residents, members of school communities, community partners, and other stakeholders in exploring student and school needs and, working together, developing a plan to address those needs.

*Discussion:* We agree that there are any number of important activities that could support increased family and community engagement. The reference to family and community engagement in this notice is deliberately broad so as to provide maximum flexibility in determining how best to address local needs. However, there is nothing to prevent local school leaders from incorporating any of the strategies mentioned or other strategies that will lead to effective family and community engagement.

*Changes:* None.

*Comment:* One commenter recommended that the Department include language to make clear that extending learning time can be accomplished by adding a preschool program prior to school entry.

*Discussion:* The Secretary agrees that preschool education is very important in ensuring that children enter kindergarten with the skills necessary to succeed in school. He also agrees that preschool education is an effective way to increase learning time.

*Changes:* We have added, as a permissible activity in paragraph (d)(3)(ii)(D), expanding the school program to offer full-day kindergarten or pre-kindergarten.

*Comment:* Several commenters suggested that the Department clarify that increased learning time includes summer school, after-school programs, and other instruction during non-school hours. Several other commenters suggested increasing instructional time during the school day and the need to make existing time more effective, including through the use of technology. Another commenter suggested clarifying that extended learning time should be beyond the current State-mandated instructional time.

*Discussion:* We have added in this notice a definition of *increased learning time* that applies to the Stabilization Phase II, Race to the Top, and SIG programs. Under that definition, *increased learning time* means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for instruction in core academic subjects; time for instruction in other subjects and enrichment activities that contribute to a well-rounded education; and time for teachers to collaborate, plan, and engage in professional development within and across grades and subjects.

*Changes:* We have revised the notice to define *increased learning time.* The full definition is as follows:

*Increased learning time* means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.[4]

**Providing Operating Flexibility and Sustained Support**

*Comment:* One commenter suggested that the Department add a requirement that a school implementing the transformation model be required to present a plan for how the various elements of the model are aligned and coordinated to improve student achievement and other indicators of student growth (such as health and civic competencies).

*Discussion:* We decline to make the suggested change. We are confident that a school implementing the transformation model would have a plan without the need for the Department to require it.

*Changes:* None.

*Comment:* One commenter recommended that the list of potential technical assistance providers in proposed section I.A.d.iv.A.2 of the SIG NPR be expanded to include ''professional organizations that have a track record of turning around low-performing schools.''

*Discussion:* This provision is intended to ensure that schools implementing the transformation model receive coordinated ongoing technical assistance and reflects the belief that an SEA, LEA, or external lead partner organization would be in the best position to integrate services at the school level. This notice does not preclude the involvement of entities other than those mentioned so long as they fulfill the role of a lead partner in integrating services and supports for the school.

*Changes:* None.

*Comment:* One commenter cautioned about the use of ''weighted per-pupil school-based budgeting,'' noting that early research indicates this practice

[4] Research supports the effectiveness of well-designed programs that expand learning time by a minimum of 300 hours per school year. (See Frazier, Julie A.; Morrison, Frederick J. ''The Influence of Extended-year Schooling on Growth of Achievement and Perceived Competence in Early Elementary School.'' Child Development. Vol. 69 (2), April 1998, pp. 495–497 and research done by Mass2020.) Extending learning into before- and after-school hours can be difficult to implement effectively, but is permissible under this definition with encouragement to closely integrate and coordinate academic work between in-school and out-of school. (See James-Burdumy, Susanne; Dynarski, Mark; Deke, John. ''When Elementary Schools Stay Open Late: Results from The National Evaluation of the 21st Century Community Learning Centers Program.'' *http://www.mathematica-mpr.com/publications/redirect_PubsDB.asp?strSite=http://epa.sagepub.com/cgi/content/abstract/29/4/296.* Educational Evaluation and Policy Analysis, Vol. 29 (4), December 2007, Document No. PP07–121.)

undermines cross-school cooperation by promoting competition among schools for students and the resources or liabilities they may represent.

*Discussion:* We note that implementing a per-pupil school-based budget formula that is weighted based on student needs is listed as a permissible, not required, activity to give schools operational flexibility. We believe allocating funds based on student characteristics and then giving schools broad flexibility to use those funds to meet their respective needs is one way to provide incentives for schools to use their cumulative resources in innovative ways to meet the needs of their student population. If an LEA determines such budgeting is not appropriate in the context of its schools, it need not implement this activity.

*Changes:* None.

**Analysis of Comments and Changes Made in These Final Requirements**

**LEA Requirements**

*Comment:* One commenter recommended that the final notice require an LEA to conduct an ''inventory of campus learning'' before selecting a school intervention model. Another commenter recommended that the SEA should be required to consider the research base for a proposed intervention.

*Discussion:* As a clarification, the requirement for an LEA to analyze the needs of its schools and select an appropriate intervention, which in the NPR was referenced at the end of proposed section I.A.2 regarding strength of an LEA's commitment and indirectly referenced in proposed section II.B.2 under SEA Responsibilities, now is specifically required in new section I.A.4 regarding evidence of strongest commitment and new section II.A.2(a)(iv) (proposed II.A.2) of the LEA Requirements section of this notice. We believe this requirement addresses the commenter's recommendation that an LEA conduct an ''inventory of campus learning'' before selecting a model. We do not agree, however, that such analysis needs to include consideration, by either the SEA or the LEA, of the research base behind the four school intervention models, primarily because the Department already has taken into account available research in developing these models.

*Changes:* The Department has added a requirement in new section II.A.2(a)(iv) (proposed II.A.2) that an LEA ''[p]rovide evidence of its strong commitment to use school improvement funds to implement the four interventions by addressing the factors in section I.A.4(a) of these requirements.'' New section I.A.4(a)(i) states that one of the factors is the LEA's efforts to ''[a]nalyze the needs of its schools and select an intervention for each school.''

*Comment:* One commenter noted that, although the proposed SEA review of LEA applications included a review of how an LEA proposes to recruit, screen, and select external providers to ensure quality and whether school interventions are embedded in a longer-term plan to sustain gains in student achievement, there were no LEA application requirements in the NPR that addressed these issues.

*Discussion:* The Department is adding language in new section II.A.2(a)(iv) (proposed II.A.2) of the final requirements that requires an LEA in its application for school improvement funds to provide evidence of its strong commitment to use school improvement funds to implement the four school intervention models by addressing the factors in new section I.A.4(a), which include recruiting, screening, and selecting external providers and sustaining the reforms after the funding period ends. However, we are removing the language in proposed section I.A.2(4) requiring LEA efforts to ''embed the interventions in a longer-term plan to sustain gains in achievement'' due to redundancy with the requirement in new section I.A.4(a)(vi) regarding how the LEA will ''[s]ustain the reforms after the funding period ends.'' We also are eliminating proposed section II.A.8 and a portion of proposed section II.B.2(2) for the same reason.

*Changes:* New section II.A.2(a)(iv) requires an LEA in its application for school improvement funds to ''[p]rovide evidence of its strong commitment to use school improvement funds to implement the four interventions by addressing the factors in section I.A.4(a) of these requirements.'' (These factors were moved from proposed section II.B.2(2), SEA Responsibilities, in the NPR.) We have removed from these factors the proposed requirement in section I.A.2(4) that an LEA ''embed the interventions in a longer-term plan to sustain gains in achievement,'' and have removed proposed section II.A.8 from these final requirements.

*Comment:* Many commenters objected to the requirement in proposed section II.A.2 that an LEA with nine or more Tier I and Tier II schools not implement the same intervention in more than 50 percent of these schools. These commenters variously observed that this restriction conflicted with the emphasis on using data to match interventions to local needs, the desirability of scaling up successful interventions, and limited LEA capacity for administering multiple intervention strategies. Other commenters objected that there was no research base for restricting the application of particular interventions. Most commenters recommended eliminating the proposed restriction, but some suggested modifying it to permit exceptions if an LEA can provide data or research to support expanded use of a particular intervention.

*Discussion:* After years of school improvement efforts under the ESEA, there are far too few examples of persistently low-achieving schools that have significantly and rapidly improved performance. We believe that, in part, this is because turning around such schools generally requires fundamental changes in leadership and often in governance and staff, changes that many LEAs are reluctant to make. Consequently, removing proposed section II.A.2 could inhibit implementation of models that involve significant changes in governance, leadership, and staffing in the persistently lowest-achieving schools. In particular, the Department is concerned that many LEAs would overuse the transformation model, even in cases where a comprehensive needs analysis supports more far-reaching changes in leadership and staffing. For this reason, we are retaining proposed section II.A.2 in the final requirements, but modifying it to state that an LEA with nine or more Tier I and Tier II schools may not implement the transformation model in more than 50 percent of those schools.

*Changes:* We have replaced ''same intervention'' with ''transformation model'' in new section II.A.2(b) in these final requirements.

*Comment:* Two commenters recommended requiring LEAs to implement one of the four school intervention models in their Tier II schools, as well as in their Tier I schools, unless they can demonstrate that they lack ''sufficient capacity to undertake intensive interventions'' in such schools.

*Discussion:* The Department agrees that serving Tier II schools is a critical part of the School Improvement Grants program described in this final notice; this is why, for example, an SEA is required to give priority to funding LEAs that commit to serve both Tier I and Tier II schools. However, because the ESEA authorizes an LEA to use school improvement funds only in Title I schools in improvement, corrective action, or restructuring, and because an SEA must apply for a waiver to permit

its LEAs to serve Tier II schools, we decline to require LEAs to serve their Tier II schools.

*Changes:* None.

*Comment:* One commenter asked for clarification regarding the allowable interventions for Tier III schools.

*Discussion:* An LEA has significant flexibility with respect to the school improvement activities it conducts in Tier III schools. It can certainly implement the four school intervention models in this notice if the needs of Tier III schools warrant those interventions. It can also implement the interventions required or permitted under section 1116 of the ESEA, which outlines the school improvement process for Title I schools identified for improvement, corrective action, or restructuring.

*Changes:* None.

*Comment:* One commenter requested additional information on how schools with kindergarten through grade 12, kindergarten through grade 8, and grades 6 through 12 will be classified under the three tiers.

*Discussion:* Grade spans are not a factor in an SEA's identification of Tier I and Tier III schools. In determining which schools may be considered Tier II schools, the ''frequently asked questions'' (FAQs) guidance document for the final State Fiscal Stabilization Fund Phase II notice states that, in accordance with section 9101(38) of the ESEA, a secondary school is a school that provides ''secondary education, as determined under State law, except that the term does not include any education beyond grade 12.'' Thus, depending on State law, a school with any of the grade spans described by the commenter (K–12, K–8, 6–12) that is a persistently lowest-achieving school and is eligible for, but does not receive, Title I, Part A funds may be considered a secondary school that could be identified by an SEA as a Tier II school.

*Changes:* None.

*Comment:* One commenter recommended that the Department require an LEA to include in its application a description of how the LEA will engage parents and families under each school intervention model that it plans to implement, and require an SEA to ensure that an LEA's application includes family engagement and parent outreach activities consistent with the requirements of section 1116 of the ESEA. Other commenters recommended that parents, communities, and other affected parties have an opportunity to comment before a specific model is selected for implementation, and that community support for a model be considered part of the ''greatest commitment'' required to receive School Improvement Grants funding. Two other commenters called for Tier I and Tier II schools to provide information to parents and the public about their school intervention model before it is implemented, with a clear explanation of the school's achievement record, why the model is being implemented, and regular progress updates.

*Discussion:* The Department agrees that parent, family, and community involvement can make an important contribution to turning around a persistently lowest-achieving school. This is why this final notice retains the requirement in proposed section I.A.2(d)(iii)(A)(*4*) that a transformation model provide ongoing mechanisms for family and community engagement. In addition, partnering with parents and faith- and community-based organizations to create safe school environments that meet students' social, emotional, and health needs is a permissible activity under the turnaround, restart, and transformation models. The Department also anticipates and expects that, consistent with existing school improvement requirements in section 1116 of the ESEA, LEAs and schools will keep parents informed regarding planned interventions and progress updates on the implementation of such interventions. We believe that these pre-existing requirements are sufficient to ensure parent and community engagement and, therefore, decline to add specific requirements for demonstrated parental or community support for the intervention models selected by an LEA.

*Changes:* We have added a provision in new section I.A.2(a)(2)(i) regarding the turnaround model and provided guidance to clarify under the restart model that family and community engagement activities are permitted. They are required under the transformation model in new section I.A.2(d)(3)(i)(B) (proposed I.A.2(d)(iii)(A)(*4*)).

*Comment:* One commenter recommended requiring LEAs to engage the local collective bargaining representative prior to participating in the School Improvement Grants process and to include in their applications such evidence of that engagement as a written commitment of support or a memorandum of understanding demonstrating the commitment of their teachers and staff to collaborate on the implementation of school intervention models.

*Discussion:* As discussed elsewhere in this notice, the Department encourages LEAs and teacher unions and teacher membership associations to collaborate closely in the development of LEA school intervention plans and to agree on strategies to effectively implement school intervention models in the context of existing collective bargaining agreements. However, we decline to require evidence of such collaboration in LEA applications for School Improvement Grants funding.

*Changes:* None.

*Comment:* One commenter recommended adding provisions to the final requirements that would make it easier for rural LEAs with low-achieving schools to participate by allowing educational service agencies to apply on behalf of several LEAs, allowing LEAs to apply in consortia, and requiring SEAs to provide technical assistance to rural LEAs.

*Discussion:* Section 1003(g) of the ESEA, which authorizes the School Improvement Grants program, requires SEAs to subgrant 95 percent of program funds directly to LEAs with schools identified for improvement, corrective action, or restructuring. If an educational service agency is an LEA within the definition in section 9101(26) of the ESEA, it may apply for a School Improvement Grant on behalf of a number of LEAs, provided the educational service agency has the authority and capability to implement the rigorous whole-school intervention models required by this notice. Additionally, LEAs may apply as a consortium for a School Improvement Grant but the consortia must be able to implement the required interventions in the Tier I and Tier II schools the consortia commits to serve. Moreover, pursuant to section 1003(g)(7) of the ESEA, if an SEA receives approval from an LEA, the SEA may directly provide support for school improvement, or arrange for the provision of such support ''through other entities such as school support teams or educational service agencies.'' Accordingly, a rural LEA, either individually or in consortia with other rural LEAs, may arrange to implement school intervention models in its Tier I and Tier II schools, or to provide school improvement services to its Tier III schools, through partnership with an educational service agency or similar entity. In addition, each SEA must address in its application for a School Improvement Grant how the SEA will use its five-percent share of those funds, which may include providing technical assistance to participating rural LEAs and schools.

*Changes:* Section II.D requires an SEA to describe in its application for a School Improvement Grant how the

SEA will use the school improvement funds it reserves at the State level.

*Comment:* One commenter recommended that, regardless of the school intervention model selected for a Tier I or Tier II school, LEAs be required to address other teaching and learning conditions that attract high-quality teachers to struggling schools, including the following: (1) The quality of the school building and classrooms; (2) class size; (3) the availability of updated textbooks and sufficient per-pupil resources; (4) team and individual planning time; (5) mentoring opportunities; (6) curricular breadth; (7) professional autonomy and flexibility; (8) competitive salaries and benefits; and (9) opportunities for professional growth.

*Discussion:* The Department agrees that LEA efforts to recruit and retain effective teachers to work in persistently lowest-achieving schools (as defined in this notice) will be essential for the success of the turnaround, restart, and transformation models. We also note that several of the conditions suggested by the commenters—such as planning time, professional autonomy and flexibility, and competitive salaries and benefits—are likely to be addressed under each of these models. However, other ''conditions,'' such as the quality of school facilities and class size, are not critical elements of the school intervention models required by this notice and we decline to require LEAs to address them in their applications for School Improvement Grants.

*Changes:* None.

**LEA Budgets**

*Comment:* One commenter requested that the Department clarify whether an LEA's budget must be submitted on a school-by-school basis or on a district-wide basis.

*Discussion:* We believe the language in section II.A.4 is clear that an LEA's budget must include school-by-school allocations for implementing an intervention or providing school improvement services. However, we have made explicit, as explained in the SEA application package, that an LEA must include in its application a separate budget for every Tier I and Tier II school that it commits to serve by implementing a school intervention model, as well as for each Tier III school that it will serve with school improvement funds. In addition, we have made clear in the SEA application package that an LEA's budget may include district-level activities that support implementation of the intervention models.

*Changes:* None.

*Comment:* One commenter recommended that each LEA be required to include in its budget submitted under proposed section II.A.3 a rationale for the proposed allocation of school improvement funds among Tier I, Tier II, and Tier III schools.

*Discussion:* We agree with the commenter's recommendation and are adding in new section II.A.2(a)(vi) of these final requirements (proposed II.A.3) a requirement that an LEA include in its application a budget indicating how it will allocate school improvement funds among Tier I, Tier II, and Tier III schools that it commits to serve. In addition, an LEA's proposed budget for its Tier I and Tier II schools must be of sufficient size and scope to implement the selected intervention models. An LEA also must describe in its application the amount of funds or value of benefits that it will provide to Tier III schools.

*Changes:* We have added a provision in new section II.A.2(a)(vi) of the final requirements (proposed II.A.3) that an LEA's application must ''[i]nclude a budget indicating how it will allocate school improvement funds among the Tier I, Tier II, and Tier III schools it commits to serve.''

*Comment:* One commenter asked whether school improvement funds could be used to fund or provide services to schools that feed into Tier I, Tier II or Tier III schools.

*Discussion:* LEAs may provide funds or services to such feeder schools only if these schools are Tier III schools that the LEA commits to serve as part of its application for a School Improvement Grant. For example, as noted in the preamble to the NPR, States may differentiate among Tier III schools by giving priority to LEAs that focus on such schools that are feeders to Tier I and Tier II schools.

*Changes:* None.

*Comment:* One commenter requested clarification as to whether school improvement funds could be used to pay the excess costs of transporting students to new schools when implementing the school closure model. Other commenters recommended that an LEA's budget for implementing the school closure model include the costs incurred by schools receiving additional students as a result of the closure.

*Discussion:* An LEA may use school improvement funds to pay some of the costs associated with closing a Tier I or Tier II school, including, for example, parent and community meetings regarding the school closure, services to help parents and students transition to a new school, or orientation activities that are specifically designed for students attending a new school. Other costs, such as revising transportation routes, making class assignments in a new school, or providing services to students in their new school, are regular responsibilities an LEA carries out for all students and may not be paid for with school improvement funds. The Department notes, however, that to the extent that a receiving school enrolls students from a closed school who are from low-income families, the receiving school should receive a larger Title I, Part A allocation to assist in meeting the needs of such students, or may even qualify as a Title I school based on the inclusion of those students.

*Changes:* None.

*Comment:* One commenter asked the Department to clarify which Title I requirements apply to the use of section 1003(g) funds, particularly if a school is operating a schoolwide program.

*Discussion:* In general, school improvement funding provided under section 1003(g), as described in this notice, is intended, much like regular Title I funds for a schoolwide program, to be used to upgrade the instructional program of an entire school. This is why, for example, the Secretary has invited SEAs to request a waiver to permit a Title I school that is implementing a targeted assistance program, but that is not eligible to operate a schoolwide program, to operate a schoolwide program in order to implement a turnaround, restart, or transformation model. However, the Department expects that a school operating a schoolwide program that is implementing a turnaround, restart, or transformation model described in these final requirements would have to modify its schoolwide program plan and school improvement plan, if it is a separate plan, to account for changes required by the selected intervention model. In particular, we note that section 1114(b)(1)(B)(iv) of the ESEA requires a Title I schoolwide program to include schoolwide reform strategies that ''are consistent with, and are designed to implement, the State and local improvement plans, if any.''

*Changes:* None.

*Comment:* A number of commenters expressed a variety of concerns about the requirement in proposed section II.A.8 that an LEA demonstrate how it will sustain the interventions implemented with its school improvement grant after the period of funding has ended. Two commenters disagreed on the value of this requirement, with one declaring it essential and the other calling for its elimination in the final notice, while another commenter also appeared to

support its elimination because of a belief that the requirement would divert attention from the more important issue of how school improvement funds will be used. One commenter recommended that an LEA reserve a portion of its school improvement grant for sustainability efforts. Another commenter suggested that plans for continuing the interventions, rather than an absolute commitment that could be difficult to fulfill in difficult economic times, should be sufficient to satisfy the requirement in proposed section II.A.8.

*Discussion:* The purpose of proposed section II.A.8 was not to hold an LEA accountable for a future commitment, but to insist that an LEA receiving school improvement funds engage in thoughtful planning about how to sustain its school intervention models after the period of Federal support for these models ends. Ideally, once the ''heavy lifting'' of initial start-up and implementation of the intervention models is completed, an LEA should be able to phase out intensive support and continue implementation with existing levels of State and local education funding. It may also be possible for an LEA to use section 1003(a) school improvement funds to continue implementation of a school intervention model begun with a section 1003(g) School Improvement Grant. Alternatively, an LEA could use a portion of its regular Title I, Part A funds for this purpose. The key is that an LEA plan for the transition that will take place in three or less years. However, because proposed section II.A.8 duplicates new criterion I.A.4(a)(vi) in the final requirements, which, in accordance with new section II.A.2(a)(iv) in this notice must be addressed in an LEA's application, we are removing proposed section II.A.8 from the final requirements.

*Changes:* We have removed proposed section II.A.8 from the final requirements.

**Accountability**

*Comment:* A number of commenters supported the proposed requirement in section II.A.7 that an LEA establish and hold its Tier I and Tier II schools accountable for meeting, or being on track to meet, three-year student achievement goals for all students and for subgroups in reading/language arts and mathematics, as well as for making progress on the leading indicators. However, several commenters raised a concern about how the separate three-year achievement goals required under proposed section II.A.7 would fit into the existing ESEA State accountability systems that are based on adequate yearly progress toward State proficiency targets. Two of these commenters claimed that having separate goals could be confusing to parents, teachers, schools, and local communities. One commenter recommended that any goals established in the final requirements be aligned with existing accountability measures, while another opposed having separate accountability standards for schools receiving school improvement funds.

Other commenters recommended that the Department require in the final notice that SEAs, rather than LEAs, develop common goals and annual targets for improvement for all their LEAs and schools, with one commenter suggesting that this would result in higher expectations for increased student achievement. For example, one commenter suggested that SEAs might require schools to exceed the district-wide average on reading/language arts and mathematics assessments after three years, demonstrate a 25-point gain in assessment scores over the same period, or meet specific targets for student proficiency in reading/language arts and mathematics (with targets differing by tier of schools). Other commenters recommended the use of multiple measures of student performance for accountability purposes, such as English language proficiency scores, graduation rates, dropout rates, attendance rates, college acceptance rates, and the number of students enrolled in International Baccalaureate and Advanced Placement courses. In addition, some commenters called for setting performance targets for Tier III schools as well as for Tier I and II schools, others emphasized the importance of accountability for subgroup performance, and one expressed concern that being ''on track'' to meet goals would be a weak indicator of progress. Another commenter requested that the Department provide LEAs with flexibility to revise their three-year goals to accommodate their State's transition to common standards and assessments. Finally, several commenters encouraged broad dissemination of performance targets to parents and the general public.

*Discussion:* The Department recognizes the difficulty and complexity of setting appropriate goals and annual targets to be used by LEAs in holding schools accountable for successful implementation of the school intervention models required by this notice. In particular, the comments submitted on the NPR have highlighted the potential for confusion on the part of parents, teachers, principals, schools, and the general public resulting from yet another set of performance goals on top of those used by existing ESEA and State accountability systems. On the other hand, the Department believes that an LEA should have a measure more sensitive than AYP to ensure that its schools are implementing these requirements fully and effectively and to be able to cease funding schools if they are not. Accordingly, we are replacing the proposed requirement that an LEA develop and use three-year student achievement goals with the requirement to make progress on the leading indicators in section III of the final requirements and to establish annual goals for student achievement on the State's assessments in both reading/language arts and mathematics that the LEA will use to monitor each Tier I and Tier II school that receives school improvement funds. Those goals might include, for example, making at least one year's progress in reading/language arts and mathematics, as measured by the State's assessments; reducing the percentage of students who are non-proficient on the State's reading/language arts and mathematics assessments by 10 percent or more from the prior year; or meeting the academic achievement goals the State establishes in its Race to the Top application.

We believe this approach, by requiring LEAs to set meaningful annual goals for overall achievement in reading/language arts and mathematics and to examine progress on the leading indicators in their Tier I and Tier II schools, will enable LEAs to monitor the fidelity and early success with which those schools are implementing their selected intervention model. Because the focus of this requirement is on monitoring implementation in a relatively small number of schools, we do not believe an LEA's goals will contribute unduly to confusion regarding the accountability requirements under the ESEA.

We do not agree that LEAs should set specific separate performance targets for Tier III schools, primarily because the level of support and the interventions taken will vary widely among those schools. The performance of those schools is best measured through the existing, AYP-based ESEA accountability system. Finally, we expect LEAs to keep the public informed of the performance of Tier I and Tier II schools, but decline to add new requirements in this area.

*Changes:* We have revised proposed section II.A.7 to state that an LEA must establish annual goals for student achievement on the State's assessments in both reading/language arts and

mathematics that it will use to monitor each Tier I and Tier II school that receives school improvement funds.

*Comment:* Several commenters requested clarification regarding how LEAs must hold schools accountable for meeting the achievement goals required by proposed section II.A.7, with one commenter asking what sanctions would be appropriate for a school that does not meet its three-year student achievement goals and another asking whether the SEA may reallocate school improvement funds from a school that is not making the required progress to another LEA or school. Other commenters recommended implementing a different school intervention model in such cases; one of these commenters proposed expediting such changes by collecting data on leading indicators in the middle of the school year so that schools have as much time as possible to implement alternative interventions. Another commenter called instead for close monitoring and reporting on school progress, coupled with assistance in helping the school to meet its progress goals.

*Discussion:* In general, the Department believes that LEAs should have flexibility to determine the appropriate response when a Tier I or Tier II school implementing one of the four intervention models is not meeting the goals established under section II.A.7. In most cases, the Department would not recommend a quick decision either to change models or to reallocate school improvement funds to another school. Rather, an LEA should first take action to ensure that the selected intervention model is fully and effectively implemented. Turning around a persistently lowest-achieving school is not an easy task and, although the intervention models required by this final notice are intended to produce dramatic and rapid changes in such a school, such changes might not be reflected in improved achievement outcomes for a year or more. However, an LEA should expect to see significant improvement in leading indicators, such as improved attendance and fewer disciplinary incidents. If a Tier I or Tier II school simply proves unable or unwilling to successfully implement a school intervention model, an LEA, in consultation with its SEA, should consider stronger action, which may include starting over with a new model or reallocating school improvement funds to another school. Finally, the Department notes that an SEA may, if authorized under State law, take over either an LEA or a particular Tier I or Tier II school in order to implement effectively a school intervention model. However, in the absence of such a takeover, the SEA may not require an LEA to implement a particular school intervention model in a Tier I or Tier II school.

*Changes:* We have added language in new section II.B.2(c) stating that ''[a]n SEA may, consistent with State law, take over an LEA or specific Tier I or Tier II schools in order to implement the interventions in these requirements.'' New section II.B.2(d) states that ''[a]n SEA may not require an LEA to implement a particular model in one or more schools unless the SEA has taken over the LEA or school.''

*Comment:* Two commenters asked for clarification regarding the impact of the NPR on SEAs participating in the differentiated accountability pilot.

*Discussion:* In 2008, the Department offered SEAs the opportunity to submit a proposal to participate in the differentiated accountability pilot. Through this pilot, nine SEAs whose proposals were approved received flexibility through a waiver under section 9401 of the ESEA to differentiate how they implement the school and LEA accountability requirements in section 1116 of the ESEA by, for example, categorizing schools for improvement, altering the school improvement timeline, or implementing different interventions based on severity of need. Any SEA that has been approved to participate in the differentiated accountability pilot may continue to do so. However, the SEA must ensure that its LEAs use school improvement funds available under section 1003(g) of the ESEA only to implement school intervention models consistent with this notice in their Tier I or Tier II schools. Thus, to the extent that a State's differentiated accountability plan is inconsistent with the requirements in this notice, an LEA receiving school improvement funds must use those funds in accordance with the requirements of this notice, even if the State's differentiated accountability plan would permit greater flexibility. To clarify this matter, we are adding a provision in section II.B.12 requiring an SEA participating in the differentiated accountability pilot to ensure that its LEAs use school improvement funds available under section 1003(g) in Tier I or Tier II schools consistent with these requirements.

*Changes:* New section II.B.12 states that ''[a]n SEA that is participating in the 'differentiated accountability pilot' must ensure that its LEAs use school improvement funds available under section 1003(g) of the ESEA in a Tier I or Tier II school consistent with these requirements.''

**Flexibility and Waivers**

*Comment:* One commenter recommended that the final notice permit SEAs and LEAs to use grant funds for a school currently funded with school improvement funds for one more year (without regard to the tiers and prescribed interventions in these final requirements) if the school is demonstrating significant progress and needs an additional year of assistance to meet its achievement goals.

*Discussion:* The final requirements, in section I.B, Providing Flexibility, permit an SEA to award funds to an LEA to continue or complete an intervention, or part of an intervention, in a Tier I school that meets the requirements of the turnaround, restart, or transformation models. In addition, an LEA would be permitted to use its School Improvement Grant to continue funding previously implemented school improvement activities in Tier III schools. However, an LEA with Tier I and Tier II schools that currently are not implementing part or all of one of the school intervention models required by the final requirements is not permitted to use school improvement funds to continue existing improvement activities but, instead, must implement one of the four school intervention models in each of the Tier I and Tier II schools it commits to serve.

*Changes:* None.

*Comment:* Two commenters supported the provision in proposed section I.B.3 allowing an SEA to request a waiver permitting a Tier I school that is ineligible to operate a schoolwide program and is operating a targeted assistance program to operate a schoolwide program in order to implement an intervention that meets the requirements for the turnaround, restart, and transformation models. However, another commenter objected that such a waiver would result in the provision of services to students who were not the intended beneficiaries of the Title I program. This commenter added that such a major departure in the Title I program should be addressed by Congress in statute and not through a waiver.

*Discussion:* The Department appreciates the support of some commenters for the proposal that would permit an SEA to seek a waiver permitting a Title I school operating a targeted assistance program, and that is ineligible for a schoolwide program, to operate a schoolwide program in order to implement a turnaround, restart, or transformation model or to close a

school. The Department does not agree that such a waiver would be a major departure from the current Title I program, which already recognizes, through the existing schoolwide program authority, that improving the performance of an entire school often is the best way to serve the intended beneficiaries of the Title I program.

*Changes:* None.

*Comment:* Several commenters supported the opportunity under proposed section I.B.2 for SEAs to request a waiver of the school improvement timeline under section 1116(b) of the ESEA for Tier I schools implementing the turnaround or restart models, with one commenter emphasizing that waiving existing school improvement requirements would give grantees the flexibility needed to focus on the interventions that would have the greatest impact on academic achievement. However, several other commenters did not support allowing Tier I schools to start over in the school improvement timeline, primarily because it would result in the loss of public school choice and supplemental educational services (SES) options for students attending those schools. One of these commenters also stated that SES, in particular, could help a Tier I school by improving the achievement of its students. Other commenters believed that it would be unfair to exempt only Tier I schools from ESEA school improvement requirements, and that schools should not be permitted to exit ESEA improvement status until they have improved student achievement. Other commenters suggested alternatives to the proposed waiver, such as providing a ''blanket waiver'' to eligible schools to reduce administrative burdens on SEAs and LEAs; permitting schools that are improving student achievement to start over regardless of the intervention chosen; allowing Tier I schools to exit improvement status after one year of making AYP, rather than the two consecutive years required by current law and regulation; and allowing all schools receiving school improvement funds to start over in the ESEA improvement timeline. Finally, one commenter requested clarification of the duration of the proposed waiver of the school improvement timeline.

*Discussion:* The Department appreciates the support of some commenters for the flexibility afforded by the proposal to permit an SEA to seek a waiver that would permit turnaround and restart schools to start over in the ESEA improvement timeline and, thus, gain an exemption from the requirements of section 1116 of the ESEA, including public school choice and SES options. We understand the concern of those commenters who argued that this waiver potentially results in the loss of public school choice and SES options to students in the persistently lowest-achieving schools, but we believe this loss is offset, at least partially, by the benefits to students from the implementation of the school intervention models. Further, the Department believes that the loss of these options is warranted only in the case of Tier I schools that are implementing the turnaround or restart models, and declines to modify or expand the application of the proposed waiver as recommended by some commenters. Finally, a waiver to start over in the improvement timeline would exempt a Tier I school from the requirements of section 1116 of the ESEA only for two years, after which time it, like any other school, would enter improvement status if it does not make adequate yearly progress for two consecutive years.

*Change:* None.

*Comment:* None.

*Discussion:* As noted in section I.B, the Secretary invites SEAs to seek several waivers in order to enable their LEAs to implement the four school intervention models in these final requirements. Those waivers include: A waiver of section 1116(b)(12) of the ESEA to permit LEAs to allow Tier I schools that implement a turnaround or restart model to ''start over'' in the school improvement timeline; a waiver of the 40 percent poverty eligibility threshold in section 1114(a)(1) of the ESEA to permit LEAs to implement a schoolwide program in a Tier I targeted assistance school; a waiver of the requirements in section 1003(g)(1) and (7) of the ESEA that limit the use of school improvement funds to Title I schools in improvement, corrective action, and restructuring in order to permit LEAs to use school improvement funds to serve Tier II schools; and a waiver of section 421(b) of the General Education Provisions Act to extend the period of availability of school improvement funds for the SEA and all its LEAs to September 30, 2013. Although the Secretary specifically invites SEAs to apply for these waivers, an LEA may seek a waiver if its SEA does not.

*Changes:* New section I.B.4 clarifies that an SEA may seek a waiver from the Secretary to enable an LEA to use school Improvement funds to serve a Tier II secondary school. New section I.B.5 clarifies that an SEA may seek a waiver from the Secretary to extend the period of availability of school improvement funds beyond September 30, 2011 so as to make those funds available to the SEA and its LEAs for up to three years. New I.B.6 makes clear that, if an SEA does not seek a waiver under section I.B.2, 3, 4, or 5, an LEA may seek a waiver from the Secretary.

**SEA Responsibilities**

*Comment:* One commenter objected to language in the preamble of the NPR encouraging SEAs to eliminate barriers to the implementation of the school intervention models, such as State laws, regulations, or policies that (1) limit the SEA's authority to intervene in low-achieving schools, (2) limit the number of charter schools that may operate in the State, or (3) impede efforts to recruit and retain effective teachers and principals in low-achieving schools. The commenter particularly objected to what it described as encouraging the removal of limits on the number of charter schools operating in a State without regard to the quality of the schools.

*Discussion:* The language opposed by this commenter is merely intended to encourage SEAs to expand their capacity to implement successfully the school intervention models described in this notice. In particular, States that unnecessarily or arbitrarily limit the number of charter schools operating within their boundaries limit the restart model as an available option for their persistently lowest-achieving schools. However, the language in the preamble is not intended to promote unlimited expansion of charter schools regardless of quality. Indeed, the restart model requires the selection of a charter school operator, CMO, or EMO ''that has been selected through a rigorous review process.''

*Changes:* None.

*Comment:* One commenter suggested that States be given greater discretion to limit the pool of LEAs applying for school improvement grants and to provide technical assistance in conducting a needs analysis and selecting appropriate interventions. The purpose of these changes would be to prevent LEAs from using scarce resources to prepare applications that are not likely to be funded (due to the size of School Improvement Grant allocations to States) and to ensure that LEAs with limited capacity to conduct comprehensive needs assessments receive the assistance they need to make the most of their School Improvement Grants. Another commenter recommended that SEAs be required to identify the poorest-performing LEAs with three or fewer schools that are not willing to implement one of the four

school intervention models, take those LEAs over, and require the schools in the LEAs to implement the turnaround model. This commenter also proposed giving parents the opportunity to recommend schools for ''forced turnarounds.'' On the other hand, three commenters urged the Department to clarify in the final notice that LEAs have the authority to determine both the number of schools to be served and the models that will be implemented.

*Discussion:* The Department believes that giving SEAs the discretion to limit the pool of LEAs that may apply for School Improvement Grants would be inconsistent with the goal of using the large amount of ARRA school improvement funding to successfully turn around as many of the Nation's persistently lowest-achieving schools as possible over the next three years. However, we agree that LEAs with limited capacity to undertake the required interventions should receive technical and other assistance from the State and external providers that will maximize their chances of success under this program. Also, new section II.B.10(a), which requires an SEA in a State in which all Tier I schools are not served to carry over a portion of its FY 2009 School Improvement Grant for a second competition in FY 2010, will give LEAs with limited capacity more time to conduct comprehensive assessments, select appropriate school intervention models, and identify external partners to help implement those models. We cannot require an SEA to take over LEAs that are unwilling or lack capacity to implement school intervention models in their persistently lowest-achieving schools; however, we are adding language in new section II.B.2(c) to clarify that an SEA may, if authorized under State law, take over either an LEA or a particular school in order to implement a school intervention model. In the absence of such a takeover, an SEA may not require an LEA to implement a particular school intervention model. The SEA role is to identify schools and assess LEA capacity to implement the four school intervention models, but the choice of interventions is up to the LEA.

*Changes:* New section II.B.2(c) states that ''[a]n SEA may, consistent with State law, take over an LEA or specific Tier I or Tier II schools in order to implement the interventions in these requirements.'' In addition, new section II.B.2(d) states that ''[a]n SEA may not require an LEA to implement a particular model in one or more schools unless the SEA has taken over the LEA or school.''

*Comment:* Two commenters recommended that the Department require SEAs to monitor LEA implementation of school improvement grants, including by making at least one onsite visit to each school. Another commenter recommended that SEAs be required to develop or identify rubrics for school needs assessments that schools and LEAs can use to plan school improvement activities and that SEAs also visit, or designate other organizations to visit, schools receiving school improvement funds in order to ensure that funded activities are well thought out and implemented as intended.

*Discussion:* The Department believes that SEAs should have flexibility to develop or adopt tools that schools and LEAs can use to assess their school improvement needs and select appropriate interventions and to determine their own methods and procedures for monitoring LEA implementation of a School Improvement Grant; therefore, we decline to specify or require particular methods and procedures in this final notice. We note, however, that an SEA, under 34 CFR 80.40(a), must monitor the day-to-day operations of activities supported with Federal funds, which would include School Improvement Grants. To reinforce this requirement, we have included a specific assurance to this effect in an SEA's application for a School Improvement Grant. In addition, we note that the leading indicators required in section III of the final requirements should provide a sound foundation for using data to monitor and hold LEAs accountable for effective use of school improvement funds and appropriate implementation of school intervention models, and we encourage SEAs to use these indicators, as well as others, for this purpose.

*Changes:* None.

*Comment:* One commenter recommended that SEAs be required to conduct a review of potential external partners using a rigorous standard that the SEA has developed in collaboration with stakeholder groups. This commenter further recommended that the standard for review require such partners to demonstrate several years of increasing student achievement. Other commenters recommended that the Department provide guidance on key elements necessary for performing a rigorous review, including definitions of CMOs and EMOs, and a process by which CMOs and EMOs report data on their effectiveness to the Department, including their impact on overall student achievement as well as achievement disaggregated by subgroups.

*Discussion:* The Department has added definitions of CMO and EMO in section I.A.2(b). We also make clear in new section II.A.8 that an LEA must hold charter school operators, CMOs, and EMOs accountable for meeting these final requirements. We believe that SEAs and LEAs should have flexibility to determine their own rigorous review process for screening charter school operators, CMOs, and EMOs, and decline to regulate further in this area. However, we encourage SEAs to provide technical assistance and other support related to the selection of external providers and are requiring an SEA to explain in its application for a School Improvement Grant how it will use the school improvement funds the SEA retains at the State level to provide technical assistance to its LEAs.

*Changes:* Section I.A.2(b) includes definitions of CMO and EMO. In addition, new section II.A.8 makes clear that an LEA must hold charter school operators, CMOs, and EMOs accountable for meeting the final requirements. Finally, section II.D requires an SEA to describe in its application to the Secretary for a School Improvement Grant how it will use the school improvement funds available at the State level. The SEA may use those funds to provide technical assistance to its LEAs.

*Comment:* One commenter recommended requiring SEAs and LEAs to make funds available to partner CMOs and EMOs to help those organizations plan and build capacity to assist in implementing required school intervention models.

*Discussion:* The Department expects that planning and capacity-building related to the implementation of school intervention models will be part of LEA contracts with CMOs and EMOs, but believes that this should be a subject for negotiation between LEAs and their CMO and EMO partners and not for regulation by the Department. Similarly, SEAs may choose to contract with CMOs and EMOs, using the SEA share of school improvement funds, as part of their overall effort to build local capacity to carry out school intervention models in Tier I and Tier II schools; however, we decline to require such action on the part of SEAs.

*Changes:* None.

*Comment:* A number of commenters, citing the importance of building overall LEA capacity—both administratively and in areas related to school improvement—recommended that the Department place a stronger emphasis on planning and funding such capacity

building as part of the School Improvement Grants program. For example, two commenters recommended that SEAs be permitted to allocate a substantial portion of school improvement funds to developing the capacity at the LEA level to analyze school needs and match interventions to those needs, while another commenter requested guidance on how LEAs can reserve funds to create a ''turnaround office'' or to provide technical assistance and support to their Tier I schools. One commenter expressed concern that, because fewer LEAs have experience with high school improvement, LEAs may determine that they lack the capacity to serve high schools.

*Discussion:* Section II.D of these final requirements requires an SEA, in its application for a School Improvement Grant to describe the activities it will undertake through the use of the school improvement funds the SEA may retain at the State level. Those activities could include supporting LEAs and schools in implementing the school intervention models required by this notice by (1) helping to identify new leaders and teachers; (2) helping to identify, screen, and select partners that will support selected intervention models; and (3) monitoring implementation of interventions and providing assistance where needed. In addition, LEAs have flexibility to include in their proposed budgets funding that they will use to build their capacity to support the effective implementation of required intervention models in participating Title I schools.

*Changes:* Section II.D requires an SEA to describe in its application to the Secretary for a School Improvement Grant how it will use the school improvement funds available at the State level, for example, to provide technical assistance to its LEAs.

*Comment:* One commenter noted that rural LEAs may require assistance in identifying technical assistance providers that can work with them to implement school improvement interventions because most of these providers are located in metropolitan areas.

*Discussion:* The Department agrees with this commenter and notes that the SEA application released with this final notice requires SEAs to describe how they will use the school improvement funds they retain to provide technical assistance to their LEAs, which can include helping their LEAs, including rural LEAs, recruit, screen, and select potential partners that will assist in the implementation of school intervention models.

*Changes:* Section II.D requires an SEA to describe in its application to the Secretary for a School Improvement Grant how it will use the school improvement funds available at the State level, for example, to provide technical assistance to its LEAs.

*Comment:* One commenter recommended adding to the final notice the specific language in section 1003(g)(7) of the ESEA stating that an SEA may, with the approval of the LEA, directly provide for school improvement activities or arrange for their provision through other entities. Another commenter recommended expanding the list of examples of other entities to include comprehensive centers.

*Discussion:* The Department believes that the statute is clear on the alternative to direct LEA subgrants and declines to include the proposed language in the final requirements. We note that, given the comprehensiveness of the four school intervention models, it will be necessary for any entity providing direct services to possess the requisite authority and control over local operations in order to implement those interventions in Tier I and Tier II schools.

*Changes:* None.

*Comment:* One commenter recommended that SEAs be required to submit a plan detailing how they will identify and share best practices from fast-improving schools.

*Discussion:* The Department agrees that this information would be useful in general, but will not require SEAs to develop such plans.

*Changes:* None.

*Comment:* None.

*Discussion:* Section 1903(b) of the ESEA requires an SEA to consult with its Committee of Practitioners before issuing any rules, regulations, or policies under Title I that affect an LEA's participation in Title I programs. Because an SEA must include in its application for a School Improvement Grant policies that affect an LEA's participation in the program, such as the SEA's priorities for funding LEAs and how it will evaluate the strength of an LEA's commitment, the SEA must seek the advice of its Committee of Practitioners prior to finalizing these policies. In addition, we recommend that the SEA consult with other stakeholders not represented on the Committee of Practitioners, such as labor representatives, charter school authorizers, business leaders, and community organizers.

*Changes:* New section II.B.13 clarifies that, before submitting its application for a School Improvement Grant to the Department, an SEA must consult with its Committee of Practitioners regarding the rules and policies contained therein and may consult with other stakeholders that have an interest in its application.

**SEA Allocations**

*Comment:* A number of commenters supported the proposed requirements related to the allocation of school improvement funds to LEAs and schools, including concentrating funds on schools with the greatest need, serving Title I-eligible secondary schools, using more than $500,000 in individual schools, and making three-year awards. Two commenters expressed concern that, despite these provisions, funding would be insufficient to fully implement or sustain school interventions based on the turnaround or transformation models. One of these commenters recommended strengthening the assurance that SEAs provide the funds needed, over a number of years, to carry out required interventions, while the other commenter called for unconditional three-year awards with funding available beyond September 30, 2011. Other commenters suggested that we include more specific requirements for State subgrants of school improvement funds such as linking the size of LEA awards to school size, poverty level, and academic need; and making per-pupil allocations within minimum and maximum award levels.

*Discussion:* The Department appreciates the comments supporting its efforts to ensure, within the limitations of the statute, that LEAs receive sufficient funds to match, as closely as possible, their multi-year budgets for successful implementation of proposed school intervention models. The Department recognizes that implementing these models requires the commitment of significant resources over several years and has emphasized, in particular, that (1) LEAs have flexibility to spend more than $500,000 per year in their Tier I and Tier II schools, and (2) the Secretary will waive the period of availability of school improvement funds beyond September 30, 2011 so that these funds are available to LEAs for three years. We are adding language in section II.A.4 clarifying that an LEA's proposed budget must cover the period of availability of the school improvement funds, taking into account any such waiver. As noted under SEA Responsibilities in the preamble to the NPR, experts estimate that the cost of turning around a persistently lowest-achieving school with 500 students can range as high as $1,000,000 annually;

the School Improvement Grants program described in these final requirements has been structured to enable SEAs to provide this level of support for LEAs implementing the four school intervention models. We also decline to require SEAs to make unconditional three-year awards to LEAs. Rather, we believe an SEA needs the option not to renew an LEA's School Improvement Grant if its participating schools, particularly its Tier I and Tier II schools are not complying with these final requirements. Finally, LEAs have discretion to base their proposed budgets on a variety of factors, including factors suggested by the commenters, such as school size and poverty status. We also are clarifying in section II.A.4 that an LEA's budget may include less than $500,000 for a Tier I or Tier II school not only if the LEA proposes to implement the school closure model for such a school but also if it demonstrates that less funding is needed to implement the selected intervention.

*Changes:* We have added language in section II.A.4 stating that ''[t]he LEA's budget must cover the period of availability of the school improvement funds, taking into account any waivers extending the period of availability received by the SEA or LEA.'' Conforming language has been added to section II.B.9 regarding SEA responsibilities. Revised section II.A.4 also states that an LEA's budget for a Tier I or Tier II school may include less than $500,000 per year ''if the LEA's budget shows that less funding is needed to implement its selected intervention fully and effectively.''

*Comment:* A number of commenters raised concerns regarding the timing of School Improvement Grants, particularly with respect to the funds available through the regular FY 2009 appropriation. Two commenters objected to the Department's decision to combine the school improvement funds from the regular FY 2009 appropriation with the funds from the ARRA and award all school improvement funds following the submission of a new application by an SEA. The commenters noted that LEAs would then need to wait and delay planned improvements and restructuring activities for one full year. Another commenter asked whether the funds would be awarded in one grant award. One commenter stated that it would be difficult to spend school improvement funds in the 2009–2010 school year if it received the funds late in the year. One commenter recommended making two cohorts of School Improvement Grants, one in September 2010 and one in September 2011.

*Discussion:* The Department understands, and to some degree shares, the concerns expressed by commenters regarding the timing of the award of FY 2009 school improvement funds. However, we have taken great care to balance the goal of maximizing the impact of the extraordinary amount of school improvement funds provided by the ARRA with the understandable desire of SEAs to access these funds on the usual award schedule. Ultimately, the Department decided that the potential benefits of this one-time opportunity to successfully turn around the Nation's persistently lowest-achieving schools justified a longer application and award process that will likely result in delaying significant expenditure of FY 2009 school improvement funds until the 2010–2011 school year.

However, in recognition of the challenges of administering FY 2009 school improvement funds, including ARRA funds, consistent with this notice, we are adding language in the final requirements that would permit, and in some cases require, an SEA to carry over FY 2009 school improvement funds and award them in combination with FY 2010 school improvement funds (depending on the availability of appropriations). The new provisions are intended to (1) serve as many Tier I schools as possible with FY 2009 school improvement funds; (2) give SEAs that are able to serve all their Tier I schools with less than the full amount of their FY 2009 School Improvement Grant allocations the flexibility to reserve a portion of those funds to serve additional Tier I schools in the following year; and (3) accommodate the additional time that may be required by some LEAs to fully plan for the efficient and effective implementation of the four school intervention models in Tier I and Tier II schools and for significant interventions and supports for Tier III schools. Accordingly, an LEA could propose in its FY 2010 application to serve those Tier I and Tier II schools that it did not include in its FY 2009 application.

*Changes:* We have added new section II.B.10(a), which states that ''[i]f not every Tier I school in a State is served with FY 2009 school improvement funds, an SEA must carry over 25 percent of its FY 2009 funds, combine those funds with FY 2010 school improvement funds (depending on the availability of appropriations), and award those funds to eligible LEAs consistent with these requirements.'' This section does not require such carryover, however, if an SEA does not have sufficient school improvement funds to serve all the Tier I schools in the State. New section II.B.10(b) permits an SEA in which each Tier I school has been served with FY 2009 school improvement funds to ''reserve up to 25 percent of its FY 2009 allocation and award those funds in combination with its FY 2010 funds (depending on the availability of appropriations) consistent with these requirements.'' New section II.B.11 requires an SEA to exclude from any competition for school improvement funds following FY 2009 ''any school that was previously identified as a Tier I or Tier II school and in which an LEA is implementing one of the four interventions identified in these requirements using funds made available under section 1003(g) of the ESEA.''

*Comment:* One commenter asked for clarification regarding which LEAs are eligible to receive school improvement funds. This commenter asked if only LEAs receiving funds in the first year of the grant are eligible to continue to receive funds under section 1003(g) for the three year period and whether additional Tier I and Tier II schools could receive funding at a later point.

*Discussion:* In general, the FY 2009 School Improvement Grants covered by these final requirements are intended to provide funds to LEAs that commit to serve Tier I, Tier II, and Tier III schools beginning in the 2010–2011 school year. Although some SEAs with a limited number of Tier I, Tier II, and Tier III schools may have sufficient funding to make awards to other LEAs with Tier I, Tier II, and Tier III schools in future years, section II.E of this notice allows the Secretary to reallocate any such excess funds to other States. However, as discussed above, we are adding provisions to these final requirements permitting, and in some cases requiring, SEAs to reserve a portion of their FY 2009 school improvement funds, including ARRA funds, to make a second cohort of awards in combination with FY 2010 funds (assuming the availability of a section 1003(g) appropriation in FY 2010). SEAs reserving FY 2009 funds in this manner would be able to make awards to additional Tier I, Tier II, and Tier III schools in the 2011–2012 school year.

*Changes:* None.

*Comment:* A number of commenters expressed concern about the emphasis the Department placed in the NPR on serving Tier I and Tier II schools, particularly in cases where there may not be sufficient funding available to make awards to all LEAs. For example, one commenter recommended allowing

SEAs to use school improvement funds for evidence-based interventions to stop further declines in the performance of Tier III schools. Another commenter claimed that there is no statutory basis for the provision in proposed section II.B.7, which would allow SEAs to ensure an appropriate geographic distribution of Tier I and Tier II schools that are served by the School Improvement Grants program. One commenter suggested as an alternative limiting the number of funded Tier III schools unless an LEA is serving all of its Tier I and Tier II schools.

*Discussion:* The purpose of the School Improvement Grants program, as implemented in the final requirements, is not to serve all LEAs with schools in improvement, corrective action, or restructuring, but to take advantage of the large amount of funding provided by the ARRA to enable LEAs with the persistently lowest-achieving schools in each State (*i.e.,* Tier I and Tier II schools) to implement effectively selected intervention models that hold the most potential for breaking the cycle of educational failure in these schools. The Department believes that, by requiring each SEA to identify its persistently lowest-achieving schools and to require LEAs seeking a School Improvement Grant to undertake certain interventions in these schools, it is, consistent with the statutory requirement, ensuring that those LEAs with both the greatest need and the strongest commitment to making effective use of such funds are being served. Consequently, we believe it is appropriate, in situations where total available funding is insufficient to serve all LEAs, for SEAs to give priority first to LEAs with Tier I and Tier II schools and then to LEAs with Tier I schools, rather than expanding support for less needy Tier III schools.

The priority on Tier I and Tier II schools is not intended to result in the geographic concentration of School Improvement Grants; however, such a concentration could occur in some States where large numbers of Tier I and Tier II schools are located in a handful of LEAs. Hence, we are including the provision in section II.B.7 that allows, but does not require, an SEA to ensure that such schools can be served throughout the State. We believe this flexibility is supported by the language in the statute permitting an SEA to determine which LEAs have the greatest need for and strongest commitment to use school improvement funds.

*Changes:* We have revised section II.B.4 to make clear that, if an SEA does not have sufficient school improvement funds to award, for up to three years, a grant to each LEA that submits an approvable application, the SEA must first give priority to LEAs that apply to serve both Tier I and Tier II schools and then give priority to LEAs that apply to serve Tier I schools.

*Comment:* One commenter recommended that the Department establish an absolute priority for LEAs implementing the restart model, claiming that it was the most rigorous of the proposed school intervention models.

*Discussion:* The Department does not believe it would be appropriate to give priority to any particular model in situations where insufficient funding is available to serve all Tier I and Tier II schools, as such an approach would unfairly favor those LEAs in which the chosen model could most readily be implemented. For example, favoring the restart model could disadvantage rural areas where few CMOs or EMOs may choose to operate.

*Changes:* None.

*Comment:* One commenter suggested that Tier II schools with feeder schools participating in Title I should generate funding under the School Improvement Grants program.

*Discussion:* Only participating Title I schools in improvement, corrective action, or restructuring generate funding under the requirements in section 1003(g) of the ESEA, which authorizes the School Improvement Grants program. We have no authority to alter that requirement through regulatory action.

*Changes:* None.

*Comment:* One commenter suggested that the Department should revise school improvement funding requirements in the final notice to help address the growing school financial inequity in virtually every American metropolitan area.

*Discussion:* The Department believes that the large amount of school improvement funds provided by the ARRA, coupled with the final requirements to provide concentrated, multi-year awards to support the successful implementation of four school intervention models, carries the potential for addressing the funding inequities that affect many of the Nation's persistently lowest-achieving schools. However, the statutory focus of the School Improvement Grants program is on low-achieving schools—*i.e.,* Title I schools in improvement, corrective action, or restructuring—and not on funding equity.

*Changes:* None.

**SEA Share of Allocations**

*Comment:* Several commenters said that there is an immediate need for school improvement funds at the State level. One commenter asked whether the start date of the availability of the school improvement funds would be retroactive to July 1, 2009 so that an SEA could reimburse itself for costs incurred prior to the receipt of its School Improvement Grant, noting that these funds are needed to provide technical assistance to LEAs to support current school improvement activities. Another commenter asked whether an SEA could access school improvement funds reserved under section 1003(a) of the ESEA that exceed the five percent authorized in the statute.

*Discussion:* In recognition of the immediate costs that SEAs are likely to incur in providing school improvement-related technical and other assistance to LEAs, the Department has decided to make available immediately the full five percent share of FY 2009 school improvement funds that an SEA may reserve under section 1003(g)(8) of the ESEA for administration, technical assistance, and evaluation purposes, including removing barriers to and setting the conditions for implementing the school intervention models in Tier I and Tier II schools.

*Changes:* The Department is not making any changes to the final requirements in response to these comments but, as described elsewhere in this document, will immediately award to each State the five percent of its FY 2009 School Improvement Grant, including both the regular FY 2009 appropriation for School Improvement Grants and funds provided by the ARRA, that SEAs may reserve under section 1003(g)(8) of the ESEA for administration, technical assistance, and evaluation purposes.

*Comment:* Several commenters recommended that the Department waive the statutory five percent cap on the amount of school improvement funds an SEA may reserve for administration, technical assistance, and evaluation purposes. These commenters cited a variety of State responsibilities under the School Improvement Grants program that may require additional funding, such as intensive planning and consultation with school improvement partners, the development and administration of a rigorous application process, technical assistance to LEAs on evaluating and choosing external partners, determining LEA capacity to implement models, compliance monitoring, and direct State intervention in low-achieving schools

and LEAs. However, one commenter called for strict adherence to the five-percent cap, even in cases where State allocations are spent over a two-year period.

*Discussion:* The Department acknowledges that SEAs have significant administrative responsibilities under the School Improvement Grants program and, as noted earlier, has taken two actions to address this concern. First, the Secretary published in the **Federal Register** a notice of final adjustments that permits each SEA to reserve an additional percentage of Title I, Part A funds (0.3 or 0.5 percent of its Title I, Part A ARRA allocation, depending on whether the SEA requests waivers of certain requirements) to help defray the costs associated with data collection and reporting requirements under the ARRA (74 FR 55215 (Oct. 27, 2009)). This increase in State administrative funds may be used to support data collection activities associated with ARRA funds, including those required by ARRA School Improvement Grants. Second, the Secretary is awarding immediately the full amount each State may reserve from its FY 2009 allocation of school improvement funds (including its ARRA School Improvement Grant) for State administration, technical assistance, and evaluation. These funds may be used at the State level for such activities as preparing the State application and developing LEA applications as well as providing technical assistance to LEAs with persistently lowest-achieving schools that will be likely to receive school improvement funds. The Secretary believes that, together, these actions should provide sufficient funds to cover an SEA's administrative costs.

*Changes:* None.

**Reporting Metrics**

*Comment:* Several commenters supported the reporting metrics proposed in the NPR, including the use of multiple measures of school performance such as instructional minutes, enrollment in advanced coursework, attendance, discipline, and truancy. Other commenters viewed some of the metrics as unnecessary, citing, in particular, instructional minutes and teacher attendance. One commenter indicated that the proposed measures will not yield the information LEAs need to track the progress of reform strategies, because the metrics do not address professional development, formative assessments, time for collaboration, and family/community engagement. Finally, one commenter recommended that SEAs be required to collect data on the distribution of teachers in the highest and lowest performance quartiles, while another claimed that the proposed collection of information on the distribution of teachers by performance level and on teacher attendance exceeded the Department's statutory authority and is not supported by research. This commenter also expressed concern about the possible manipulation of such data, urging the Department instead to collect data on teachers assigned out of field, teachers teaching with emergency permits, teacher turnover, and teacher satisfaction.

*Discussion:* The Department appreciates the expressions of support for the reporting metrics included in the NPR. We recognize that there are many possible progress and outcome indicators that could be used to measure the effectiveness of the school intervention models, and the metrics included in the NPR reflected careful consideration of the best combination of existing and new indicators that we believed would achieve this goal while minimizing data collection burdens on SEAs and LEAs. We disagree with the commenters who stated that some of these indicators are unnecessary. In particular, we believe indicators of the length of the school year and teacher attendance rates measure essential aspects of successful school interventions, *i.e.,* the use of additional time to improve instruction and changes that improve working conditions for teachers. However, we are slightly modifying these two indicators in the final requirements, changing ''number of instructional minutes'' to ''number of minutes within the school year'' to acknowledge that increases in the length of the school day or year are not only for instructional purposes, and clarifying that by ''teacher attendance'' we mean ''teacher attendance rate.'' Also, we are retaining the requirement for SEAs to collect data on the distribution of teachers by performance level on an LEA's teacher evaluation system, as we believe that collecting such data, as well as teacher attendance rate data, is fully consistent with the ARRA's emphasis on improving teacher effectiveness and the distribution of effective teachers. We also believe that efforts to manipulate such data are likely to be transparent and thus, if evident, will facilitate monitoring and accountability efforts.

*Changes:* We have changed ''Number of instructional minutes'' to ''Number of minutes within the school year'' and ''Teacher attendance'' to ''Teacher attendance rate.''

*Comment:* A large number of commenters recommended further changes and additions to the reporting metrics. A number of the commenters, for example, suggested modifications to proposed data elements, such as collecting the data over time; comparing the data for School Improvement Grant recipients with other schools in the State; ensuring the comparability of teacher attendance data across States and LEAs; defining the term ''advanced coursework''; and measuring completion rather than enrollment in advanced courses. Other commenters suggested that we add metrics, such as Title I eligibility and participation data; achievement data from the National Assessment of Educational Progress (NAEP); data on completion of a college-and-career-ready course of study; the proficiency scores of students with limited English proficiency; data on the type of English proficiency instructional programs offered at the schools receiving school improvement funds; and program participation and achievement data for limited English proficient students. Other commenters suggested additional metrics related to parent and family involvement, expanding learning time, music, art, foreign languages, physical education, class-size ratios, classes taught in temporary settings, parental participation, school safety, professional development, longitudinal surveys of high school graduates, and qualitative data.

*Discussion:* Although we appreciate the many suggestions that commenters offered regarding additional data that might be collected for Tier I and Tier II schools, we think requiring the collection of data on additional metrics would be burdensome on SEAs and LEAs to collect and report relative to how useful the data would be in evaluating the effectiveness of LEA implementation of the school intervention models. Thus, we decline to add these proposed additional measures to the reporting metrics in the final requirements, though we would hasten to add that SEAs and LEAs are encouraged to collect and use any data above and beyond these requirements that they believe will assist in the effective implementation of the four school intervention models. In addition, we do agree with recommendations to clarify certain indicators in the NPR, particularly with regard to the collection of data over time and to advanced coursework. To clarify that we want to compare changes in these indicators over time, we are including in the final requirements a new section III.A.4, requiring an SEA to report all metrics for the school year prior to

implementation of the school intervention models, to serve as a baseline, and for each of the following years for which the SEA receives a School Improvement Grant. We also agree that the number and percentage of students completing advanced coursework would be more meaningful than the number and percentage of students enrolled in advanced coursework.

*Changes:* We have modified the reporting metric on advanced coursework in high schools to require the SEA to report on the number and percentage of students in Tier I and Tier II schools completing such coursework, rather than merely enrolling in these courses. We also have added the following language in section III.A.4 that applies to all reporting metrics: ''An SEA must report these metrics for the school year prior to implementing the intervention, if the data are available, to serve as a baseline, and for each year thereafter for which the SEA allocates school improvement funds under section 1003(g) of the ESEA.''

*Comment:* Several commenters urged the Department to clarify that ''average scores on State assessments across subgroups'' means ''average scores on State assessments by subgroups.''

*Discussion:* We agree that this indicator was unclear in the NPR, and are modifying its language in the final requirements. Specifically, we are clarifying that the average scale scores are on the State's reading/language arts and mathematics assessments; that they are by grade assessed; that they are for the ''all students'' group and for each subgroup identified in 34 CFR 200.13(b)(7); and that they are to be broken down by achievement quartile.

*Changes:* We have changed this indicator to read as follows: ''Average scale scores on State assessments in reading/language arts and in mathematics, by grade, for the 'all students' group, for each achievement quartile, and for each subgroup.''

*Comment:* One commenter noted that some States have alternate assessments that use a different scale than the regular assessments and contended that it would not be possible to generate an average scale score for all students assessed.

*Discussion:* We are clarifying, in the FAQ document that we intend to release soon after these requirements that States using a different scale for alternate assessments may submit average scale scores for all students assessed on regular assessments and average scale scores, if available, for students assessed using alternate assessments.

*Changes:* None.

*Comment:* Multiple commenters contended that the Reporting Metrics, particularly those that involve new data collections, will be administratively burdensome for SEAs and LEAs, with one commenter suggesting that the Department refrain from adding new reporting requirements until reauthorization of the ESEA. Another commenter recommended restricting reporting measures to those that States can collect through the LEA application and that the Department can collect through ED*Facts.* One commenter called for flexibility on the timing of when LEAs will have to report information not currently collected, while others recommended additional funding for reporting and evaluation activities, including the reservation of one percent of school improvement funds for this purpose.

*Discussion:* As shown in the table on reporting metrics included in the NPR, the Department exercised great care in selecting achievement measures and leading indicators that would minimize collection and reporting burdens on SEAs and LEAs. For example, only five of 20 proposed indicators were new for the School Improvement Grants program; others already are provided through ED*Facts* or reporting required by the State Fiscal Stabilization Fund. This approach has been maintained in these final requirements; therefore, the Department declines to permit SEAs to reserve additional School Improvement Grants funding for the collection and reporting of performance indicators. However, as discussed earlier in this final notice, the Secretary recently published in the **Federal Register** (74 FR 55215) a notice of final adjustments that permits each State to reserve an additional percentage of Title I, Part A funds (0.3 or 0.5 percent of its Title I, Part A ARRA allocation, depending on whether an SEA requests waivers of certain requirements) to help defray the costs associated with data collection and reporting requirements under the ARRA, including data collection activities related to ARRA School Improvement Grants.

*Changes:* None.

*Comment:* Two commenters raised concerns about tracking the academic achievement of students from a closed school who enroll in a higher-achieving school to determine if their new school has contributed to improving their achievement. One of these commenters stated that it would be very burdensome to separate and aggregate the assessment results of only the students who move from a closed school.

*Discussion:* The Department agrees that it may be administratively burdensome to follow the progress of students who transfer to another, higher-achieving school under the school closure model; therefore, although we encourage SEAs or LEAs to conduct their own analysis, we decline to require such reporting. However, school closure accomplishes the goal of providing better educational opportunities to students in persistently lowest-achieving schools, and the schools to which these students transfer, to the extent they are schools receiving Title I funds, will be held accountable for their performance under the regular ESEA accountability requirements. The Department is clarifying in new section III.A.4 that, with respect to a school that is closed, an SEA need only report the identity of the school and the intervention taken—*i.e.,* school closure.

*Changes:* Section III.A.4 clarifies that, with respect to a school that is closed, an SEA need report only the identity of the school and the intervention taken—*i.e.,* school closure.

*Comment:* One commenter recommended that SEAs be required to provide the Department with a list of the Tier I, Tier II, and Tier III schools being funded. This commenter also recommended that the Department post State applications on its Web site to ensure transparency. Another commenter recommended that SEAs and LEAs be required to make freely available information on all outputs produced through these grants in order to promote the greatest possible impact of this investment.

*Discussion:* The Department proposed in section III.A.2 of the NPR requiring SEAs to report, for each LEA receiving school improvement funds under this notice, a list of schools that were served and the amount of funds or value of services each school received. The Department is retaining this language in the final requirements. Also, we agree that posting SEA School Improvement Grant applications on the Department's Web site would provide valuable transparency for this program and we intend to do so. Moreover, because we believe that posting LEA applications would be most useful for this purpose, we are adding language in section II.B.3 of the final requirements, under SEA Responsibilities, to require SEAs to post final LEA applications on their Web sites as well as a summary of those grants that includes the following information: the name and NCES identification number of each LEA awarded a grant; the amount of each LEA's grant; the name and NCES identification number of each school to be served; and the type of intervention to be implemented in each Tier I and

Tier II school. We decline to add a provision requiring SEAs and LEAs to make available ''outputs'' produced through the use of school improvement funds.

*Change:* New section II.B.3 states that ''[a]n SEA must post on its Web site all final LEA applications for School Improvement Grants as well as a summary of those grants that includes the following information:

(a) Name and NCES identification number of each LEA awarded a grant.

(b) Amount of each LEA's grant.

(c) Name and NCES identification number of each school to be served.

(d) Type of intervention to be implemented in each Tier I and Tier II school.''

**Evaluation**

*Comment:* One commenter called for a quantitative and qualitative evaluation of activities funded with School Improvement Grants at the LEA and school levels.

*Discussion:* The Department currently is developing plans for a comprehensive evaluation of the School Improvement Grants program described in this notice and will provide more information at a later date.

*Changes:* None.

**ED Technical Assistance**

*Comment:* Several commenters recommended that the Department provide technical assistance and support to SEAs in implementing the School Improvement Grants program, including on the criteria SEAs should use to determine if an LEA has the capacity to implement the selected interventions and on best practices for continuing LEA oversight and feedback to schools implementing the school intervention models. One of these commenters pointed out that the Department is in the best position to provide information on what is working well across a broad range of States and LEAs.

*Discussion:* The Department agrees that it should provide a variety of technical assistance to SEAs implementing the School Improvement Grants program, and intends to do so. As an initial example of such assistance, concurrently with the availability of the SEA application package, we have issued FAQs to help clarify various aspects of the School Improvement Grant program for SEAs, LEAs, and schools.

*Changes:* None.

*Final Requirements:* The Secretary issues the following requirements with respect to the allocation and use of School Improvement Grants. The Secretary may use these requirements for any year in which funds are appropriated for School Improvement Grants authorized under section 1003(g) of the ESEA.

As noted earlier, the final requirements with respect to the definitions of *persistently lowest-achieving schools, increased learning time,* and *student growth* as well as the four school intervention models were issued in the State Fiscal Stabilization Funds Notice of Final Requirements, Definitions, and Approval Criteria. They are included verbatim in this notice for the ease of SEAs and LEAs that receive a School Improvement Grant.

*I. SEA Priorities in Awarding School Improvement Grants*

A. *Defining Key Terms.* To award School Improvement Grants to its LEAs, consistent with section 1003(g)(6) of the ESEA, an SEA must define three tiers of schools, in accordance with the requirements in paragraph 1, to enable the SEA to select those LEAs with the greatest need for such funds. From among the LEAs in greatest need, the SEA must select, in accordance with paragraph 2, those LEAs that demonstrate the strongest commitment to ensuring that the funds are used to provide adequate resources to enable the lowest-achieving schools to meet the accountability requirements in this notice. Accordingly, an SEA must use the following definitions to define key terms:

1. *Greatest need.* An LEA with the greatest need for a School Improvement Grant must have one or more schools in at least one of the following tiers:

(a) *Tier I schools:* A Tier I school is a Title I school in improvement, corrective action, or restructuring that is identified by the SEA under paragraph (a)(1) of the definition of ''persistently lowest-achieving schools.''

(b) *Tier II schools:* A Tier II school is a secondary school that is eligible for, but does not receive, Title I, Part A funds and is identified by the SEA under paragraph (a)(2) of the definition of ''persistently lowest-achieving schools.''

(c) *Tier III schools:* A Tier III school is a Title I school in improvement, corrective action, or restructuring that is not a Tier I school. An SEA may establish additional criteria to use in setting priorities among LEA applications for funding and to encourage LEAs to differentiate among these schools in their use of school improvement funds.

2. *Strongest commitment.* An LEA with the strongest commitment is an LEA that agrees to implement, and demonstrates the capacity to implement fully and effectively, one of the following rigorous interventions in each Tier I and Tier II school that the LEA commits to serve:

(a) *Turnaround model:* (1) A turnaround model is one in which an LEA must—

(i) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(ii) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students,

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(iii) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(iv) Provide staff ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(v) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new ''turnaround office'' in the LEA or SEA, hire a ''turnaround leader'' who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability;

(vi) Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards;

(vii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(viii) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and

(ix) Provide appropriate social-emotional and community-oriented services and supports for students.

(2) A turnaround model may also implement other strategies such as—

(i) Any of the required and permissible activities under the transformation model; or

(ii) A new school model (*e.g.,* themed, dual language academy).

(b) *Restart model:* A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides ''whole-school operation'' services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

(c) *School closure:* School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.

(d) *Transformation model:* A transformation model is one in which an LEA implements each of the following strategies:

(1) *Developing and increasing teacher and school leader effectiveness.*

(i) *Required activities.* The LEA must—

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that—

(*1*) Take into account data on student growth (as defined in this notice) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high school graduations rates; and

(*2*) Are designed and developed with teacher and principal involvement;

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff ongoing, high-quality, job-embedded professional development (*e.g.,* regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(ii) *Permissible activities.* An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as—

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(2) *Comprehensive instructional reform strategies.*

(i) *Required activities.* The LEA must—

(A) Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(ii) *Permissible activities.* An LEA may also implement comprehensive instructional reform strategies, such as—

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a schoolwide ''response-to-intervention'' model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited English proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools—

(*1*) Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement; International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

(*2*) Improving student transition from middle to high school through summer transition programs or freshman academies;

(*3*) Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

(*4*) Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(3) *Increasing learning time and creating community-oriented schools.*

(i) *Required activities.* The LEA must—

(*A*) Establish schedules and strategies that provide increased learning time (as defined in this notice); and

(*B*) Provide ongoing mechanisms for family and community engagement.

(ii) *Permissible activities.* An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as—

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(4) *Providing operational flexibility and sustained support.*

(i) *Required activities.* The LEA must—

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the SEA, or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(ii) *Permissible activities.* The LEA may also implement other strategies for providing operational flexibility and intensive support, such as—

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

3. *Definitions.*

*Increased learning time* means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects including English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.[5]

*Persistently lowest-achieving schools* means, as determined by the State—

(a)(1) Any Title I school in improvement, corrective action, or restructuring that—

(i) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and

(2) Any secondary school that is eligible for, but does not receive, Title I funds that—

(i) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

(b) To identify the lowest-achieving schools, a State must take into account both—

(i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and

(ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

*Student growth* means the change in achievement for an individual student between two or more points in time. For grades in which the State administers summative assessments in reading/language arts and mathematics, student growth data must be based on a student's score on the State's assessment under section 1111(b)(3) of the ESEA. A State may also include other measures that are rigorous and comparable across classrooms.

4. *Evidence of strongest commitment.*

(a) In determining the strength of an LEA's commitment to ensuring that school improvement funds are used to provide adequate resources to enable persistently lowest-achieving schools to improve student achievement substantially, an SEA must consider, at a minimum, the extent to which the LEA's application demonstrates that the LEA has taken, or will take, action to—

(i) Analyze the needs of its schools and select an intervention for each school;

(ii) Design and implement interventions consistent with these requirements;

(iii) Recruit, screen, and select external providers, if applicable, to ensure their quality;

(iv) Align other resources with the interventions;

(v) Modify its practices or policies, if necessary, to enable it to implement the interventions fully and effectively; and

(vi) Sustain the reforms after the funding period ends.

(b) The SEA must consider the LEA's capacity to implement the interventions and may approve the LEA to serve only those Tier I and Tier II schools for which the SEA determines that the LEA can implement fully and effectively one of the interventions.

B. *Providing flexibility.*

1. An SEA may award school improvement funds to an LEA for a Tier I or Tier II school that has implemented, in whole or in part, an intervention that meets the requirements under section I.A.2(a), 2(b), or 2(d) of these requirements within the last two years so that the LEA and school can continue or complete the intervention being implemented in that school.

2. An SEA may seek a waiver from the Secretary of the requirements in section 1116(b) of the ESEA in order to permit a Tier I school implementing an intervention that meets the requirements under section I.A.2(a) or 2(b) of these requirements in an LEA that receives a School Improvement Grant to ''start over'' in the school improvement timeline. Even though a school implementing the waiver would no longer be in improvement, corrective action, or restructuring, it may receive school improvement funds.

3. An SEA may seek a waiver from the Secretary to enable a Tier I school that is ineligible to operate a Title I schoolwide program and is operating a Title I targeted assistance program to operate a schoolwide program in order to implement an intervention that meets

[5] Research supports the effectiveness of well-designed programs that expand learning time by a minimum of 300 hours per school year. (See Frazier, Julie A.; Morrison, Frederick J. ''The Influence of Extended-year Schooling on Growth of Achievement and Perceived Competence in Early Elementary School.'' Child Development. Vol. 69 (2), April 1998, pp. 495–497 and research done by Mass2020.) Extending learning into before- and after-school hours can be difficult to implement effectively, but is permissible under this definition with encouragement to closely integrate and coordinate academic work between in school and out of school. (See James-Burdumy, Susanne; Dynarski, Mark; Deke, John. ''When Elementary Schools Stay Open Late: Results from The National Evaluation of the 21st Century Community Learning Centers Program.'' Educational Evaluation and Policy Analysis, Vol. 29 (4), December 2007, Document No. PP07–121.) *http://www.mathematica-mpr.com/publications/redirect_PubsDB.asp?strSite=http://epa.sagepub.com/cgi/content/abstract/29/4/296.*

the requirements under section I.A.2(a), 2(b), or 2(d) of these requirements.

4. An SEA may seek a waiver from the Secretary to enable an LEA to use school improvement funds to serve a Tier II secondary school.

5. An SEA may seek a waiver from the Secretary to extend the period of availability of school improvement funds beyond September 30, 2011 so as to make those funds available to the SEA and its LEAs for up to three years.

6. If an SEA does not seek a waiver under section I.B.2, 3, 4, or 5, an LEA may seek a waiver.

*II. Awarding School Improvement Grants to LEAs*

A. LEA Requirements

1. An LEA may apply for a School Improvement Grant if it has one or more schools that qualify under the State's definition of a Tier I or Tier III school. An eligible LEA may also apply to serve Tier II schools.

2. In its application, in addition to other information that the SEA may require—

(a) The LEA must—

(i) Identify the Tier I, Tier II, and Tier III schools it commits to serve;

(ii) Identify the intervention it will implement in each Tier I and Tier II school it commits to serve;

(iii) Demonstrate that it has the capacity to use the school improvement funds to provide adequate resources and related support to each Tier I and Tier II school it commits to serve in order to implement fully and effectively one of the four interventions identified in section I.A.2 of these requirements;

(iv) Provide evidence of its strong commitment to use school improvement funds to implement the four interventions by addressing the factors in section I.A.4(a) of these requirements;

(v) Include a timeline delineating the steps the LEA will take to implement the selected intervention in each Tier I and Tier II school identified in the LEA's application; and

(vi) Include a budget indicating how it will allocate school improvement funds among the Tier I, Tier II, and Tier III schools it commits to serve.

(b) If an LEA has nine or more Tier I and Tier II schools, the LEA may not implement the transformation model in more than 50 percent of those schools.

3. The LEA must serve each Tier I school using one of the four interventions identified in section I.A.2 of these requirements unless the LEA demonstrates that it lacks sufficient capacity (which may be due, in part, to serving Tier II schools) to undertake one of these rigorous interventions in each Tier I school, in which case the LEA must indicate the Tier I schools that it can effectively serve. An LEA may not serve with school improvement funds awarded under section 1003(g) of the ESEA a Tier I school in which it does not implement one of the four interventions.

4. The LEA's budget for each Tier I and Tier II school it commits to serve must be of sufficient size and scope to ensure that the LEA can implement one of the rigorous interventions identified in section I.A.2 of these requirements. The LEA's budget must cover the period of availability of the school improvement funds, taking into account any waivers extending the period of availability received by the SEA or LEA. The LEA's budget may, and likely would, exceed $500,000 per year for each Tier I and Tier II school that implements an intervention in section I.A.2(a), 2(b), or 2(d) in order to reform the school consistent with the LEA's application and these requirements. The LEA's budget may include less than $500,000 per year for a Tier I or Tier II school for which it proposes to implement the school closure intervention in section I.A.2(c) (which would typically be completed within one year) or if the LEA's budget shows that less funding is needed to implement its selected intervention fully and effectively.

5. The LEA's budget for each Tier III school it commits to serve must include the services it will provide the school, particularly if the school meets additional criteria established by the SEA, although those services do not need to be commensurate with the funds the SEA provides the LEA based on the school's inclusion in the LEA's School Improvement Grant application.

6. An LEA in which one or more Tier I schools are located and that does not apply to serve at least one of these schools may not apply for a grant to serve only Tier III schools.

7. (a) To monitor each Tier I and Tier II school that receives school improvement funds, an LEA must—

(i) Establish annual goals for student achievement on the State's assessments in both reading/language arts and mathematics; and

(ii) Measure progress on the leading indicators in section III of these requirements.

(b) The LEA must also meet the requirements with respect to adequate yearly progress in section 1111(b)(2) of the ESEA.

8. If an LEA implements a restart model, it must hold the charter school operator, CMO, or EMO accountable for meeting the final requirements.

B. SEA Requirements

1. To receive a School Improvement Grant, an SEA must submit an application to the Department at such time, and containing such information, as the Secretary shall reasonably require.

2. (a) An SEA must review and approve, consistent with these requirements, an application for a School Improvement Grant that it receives from an LEA.

(b) Before approving an LEA's application, the SEA must ensure that the application meets these requirements, particularly with respect to—

(i) Whether the LEA has agreed to implement one of the four interventions identified in section I.A.2 of these requirements in each Tier I and Tier II school included in its application;

(ii) The extent to which the LEA's application shows the LEA's strong commitment to use school improvement funds to implement the four interventions by addressing the factors in section I.A.4(a) of these requirements;

(iii) Whether the LEA has the capacity to implement the selected intervention fully and effectively in each Tier I and Tier II school identified in its application; and

(iv) Whether the LEA has submitted a budget that includes sufficient funds to implement the selected intervention fully and effectively in each Tier I and Tier II school it identifies in its application and whether the budget covers the period of availability of the funds, taking into account any waiver extending the period of availability received by either the SEA or the LEA.

(c) An SEA may, consistent with State law, take over an LEA or specific Tier I or Tier II schools in order to implement the interventions in these requirements.

(d) An SEA may not require an LEA to implement a particular model in one or more schools unless the SEA has taken over the LEA or school.

(e) To the extent that a Tier I or Tier II school implementing a restart model becomes a charter school LEA, an SEA must hold the charter school LEA accountable, or ensure that the charter school authorizer holds it accountable, for complying with the final requirements.

3. An SEA must post on its Web site, within 30 days of awarding School Improvement Grants to LEAs, all final LEA applications as well as a summary of those grants that includes the following information:

(a) Name and National Center for Education Statistics (NCES)

identification number of each LEA awarded a grant.

(b) Amount of each LEA's grant.

(c) Name and NCES identification number of each school to be served.

(d) Type of intervention to be implemented in each Tier I and Tier II school.

4. If an SEA does not have sufficient school improvement funds to award, for up to three years, a grant to each LEA that submits an approvable application, the SEA must first give priority to LEAs that apply to serve both Tier I and Tier II schools and then give priority to LEAs that apply to serve Tier I schools.

5. An SEA must award a School Improvement Grant to an LEA in an amount that is of sufficient size and scope to support the activities required under section 1116 of the ESEA and these requirements. The LEA's total grant may not be less than $50,000 or more than $500,000 per year for each Tier I and Tier III school that the LEA commits to serve.

6. (a) In awarding school improvement funds to an LEA, an SEA must allocate $500,000 per year for each Tier I school that will implement a rigorous intervention under section I.A.2(a), 2(b), or 2(d) for which the LEA has requested funds in its budget and for which the SEA determines the LEA has the capacity to serve, unless the SEA determines on a case-by-case basis, considering such factors as school size, the intervention selected, and other relevant circumstances, that less funding is needed to implement the intervention fully and effectively.

(b) The SEA must allocate sufficient school improvement funds in total to the LEA, consistent with section 1003(g)(5) of the ESEA, to meet, as closely as possible, the LEA's budget for implementing one of the four interventions in each Tier I and Tier II school it commits to serve, including the costs associated with closing such schools under section I.A.2(c), as well as the costs for serving participating Tier III schools, particularly those meeting additional criteria established by the SEA.

7. If an SEA does not have sufficient school improvement funds to allocate to each LEA with a Tier I or Tier II school an amount sufficient to enable the school to implement fully and effectively the specified intervention throughout the period of availability, including any extension afforded through a waiver, the SEA may take into account the distribution of Tier I and Tier II schools among such LEAs in the State to ensure that Tier I and Tier II schools throughout the State can be served.

8. If an SEA has provided a School Improvement Grant to each LEA that has requested funds to serve a Tier I or Tier II school in accordance with these requirements, the SEA may award remaining school improvement funds to an LEA that seeks to serve only Tier III schools that applies to receive those funds.

9. In awarding School Improvement Grants, an SEA must apportion its school improvement funds in order to make grants to LEAs, as applicable, that are renewable for the length of the period of availability of the funds, taking into account any waivers that may have been requested and received by the SEA or an individual LEA to extend the period of availability.

10. (a) If not every Tier I school in a State is served with FY 2009 school improvement funds, an SEA must carry over 25 percent of its FY 2009 funds, combine those funds with FY 2010 school improvement funds (depending on the availability of appropriations), and award those funds to eligible LEAs consistent with these requirements. This requirement does not apply in a State that does not have sufficient school improvement funds to serve all the Tier I schools in the State.

(b) If each Tier I school in a State is served with FY 2009 school improvement funds, an SEA may reserve up to 25 percent of its FY 2009 allocation and award those funds in combination with its FY 2010 funds (depending on the availability of appropriations) consistent with these requirements.

11. In identifying Tier I and Tier II schools in a State for purposes of allocating funds appropriated for School Improvement Grants under section 1003(g) of the ESEA for any year subsequent to FY 2009, an SEA must exclude from consideration any school that was previously identified as a Tier I or Tier II school and in which an LEA is implementing one of the four interventions identified in these requirements using funds made available under section 1003(g) of the ESEA.

12. An SEA that is participating in the ''differentiated accountability pilot'' must ensure that its LEAs use school improvement funds available under section 1003(g) of the ESEA in a Tier I or Tier II school consistent with these requirements.

13. Before submitting its application for a School Improvement Grant to the Department, the SEA must consult with its Committee of Practitioners established under section 1903(b) of the ESEA regarding the rules and policies contained therein and may consult with other stakeholders that have an interest in its application.

C. Renewal for Additional One-Year Periods

(a) If an SEA or an individual LEA requests and receives a waiver of the period of availability of school improvement funds, an SEA—

(i) Must renew the School Improvement Grant for each affected LEA for additional one-year periods commensurate with the period of availability if the LEA demonstrates that its Tier I and Tier II schools are meeting the requirements in section II.A.7 and that its Tier III schools are meeting the goals in their plans developed under section 1116 of the ESEA; and

(ii) May renew an LEA's School Improvement Grant if the SEA determines that the LEA is making progress toward meeting the requirements in section II.A.7.

(b) If an SEA does not renew an LEA's School Improvement Grant because the LEA's participating schools are not meeting the requirements in section II.A.7, the SEA may reallocate those funds to other eligible LEAs, consistent with these requirements.

D. State Reservation for Administration, Evaluation, and Technical Assistance

An SEA may reserve from the school improvement funds it receives under section 1003(g) of the ESEA in any given year no more than five percent for administration, evaluation, and technical assistance expenses. An SEA must describe in its application for a School Improvement Grant how the SEA will use these funds.

E. A State Whose School Improvement Grant Exceeds the Amount the State May Award to Eligible LEAs

In some States in which a limited number of Title I schools are identified for improvement, corrective action, or restructuring, the SEA may be able to make School Improvement Grants, renewable for additional years commensurate with the period of availability of the funds, to each LEA with a Tier I, Tier II, or Tier III school without using the State's full allocation under section 1003(g) of the ESEA. An SEA in this situation may reserve no more than five percent of its FY 2009 allocation of school improvement funds for administration, evaluation, and technical assistance expenses under section 1003(g)(8) of the ESEA. The SEA may retain sufficient school improvement funds to serve, for succeeding years, each Tier I, II, and III school that generates funds for an eligible LEA. The Secretary may

reallocate to other States any remaining school improvement funds from States with surplus funds.

*III. Reporting and Evaluation*

A. Reporting Metrics

To inform and evaluate the effectiveness of the interventions identified in these requirements, the Secretary will collect data on the metrics in the following chart. The Department already collects most of these data through ED*Facts* and will collect data on two metrics through SFSF reporting. Accordingly, an SEA must only report the following new data with respect to school improvement funds:

1. A list of the LEAs, including their NCES identification numbers, that received a School Improvement Grant under section 1003(g) of the ESEA and the amount of the grant.

2. For each LEA that received a School Improvement Grant, a list of the schools that were served, their NCES identification numbers, and the amount of funds or value of services each school received.

3. For any Tier I or Tier II school, school-level data on the metrics designated on the following chart as ''SIG'' (School Improvement Grant):

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| Metric | Source | Achievement Indicators | Leading Indicators |
|---|---|---|---|
| SCHOOL DATA | | | |
| Which intervention the school used (i.e., turnaround, restart, closure, or transformation ) | **NEW SIG** | | |
| AYP status | EDFacts | ✓ | |
| Which AYP targets the school met and missed | EDFacts | ✓ | |
| School improvement status | EDFacts | ✓ | |
| Number of minutes within the school year | **NEW SIG** | | ✓ |
| STUDENT OUTCOME/ACADEMIC PROGRESS DATA | | | |
| Percentage of students at or above each proficiency level on State assessments in reading/language arts and mathematics (e.g., Basic, Proficient, Advanced), by grade and by student subgroup | EDFacts | ✓ | |
| | | | |
| Student participation rate on State assessments in reading/language arts and in mathematics, by student subgroup | EDFacts | | ✓ |
| Average scale scores on State assessments in reading/language arts and in mathematics, by grade, for the "all students" group, for each achievement quartile, and for each subgroup | **NEW SIG** | ✓ | |
| Percentage of limited English proficient students who attain English language proficiency | EDFacts | ✓ | |
| Graduation rate | EDFacts | ✓ | |
| Dropout rate | EDFacts | | ✓ |
| Student attendance rate | EDFacts | | ✓ |
| Number and percentage of students completing advanced coursework (e.g., AP/IB), early-college high schools, or dual enrollment classes | **NEW SIG HS only** | | ✓ |
| College enrollment rates | NEW | ✓ | |

| Metric | Source | Achievement Indicators | Leading Indicators |
|---|---|---|---|
| | SFSF Phase II HS only | | |
| STUDENT CONNECTION AND SCHOOL CLIMATE | | | |
| Discipline incidents | EDFacts | | ✓ |
| Truants | EDFacts | | ✓ |
| TALENT | | | |
| Distribution of teachers by performance level on LEA's teacher evaluation system | NEW SFSF Phase II | | ✓ |
| Teacher attendance rate | **NEW SIG** | | ✓ |

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4. An SEA must report these metrics for the school year prior to implementing the intervention, if the data are available, to serve as a baseline, and for each year thereafter for which the SEA allocates school improvement funds under section 1003(g) of the ESEA. With respect to a school that is closed, the SEA need report only the identity of the school and the intervention taken—*i.e.*, school closure.

B. Evaluation

An LEA that receives a School Improvement Grant must participate in any evaluation of that grant conducted by the Secretary.

Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities in a material way (also referred to as an ''economically significant'' rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. The Secretary has determined that this regulatory action is significant under section 3(f)(1) of the Executive order.

**Potential Costs and Benefits**

The potential costs have been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Department has assessed the potential costs and benefits of this regulatory action.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final requirements, the Department has determined that the benefits of the requirements exceed the costs. The Department also has determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

**Summary of Potential Costs and Benefits**

The Department believes that the requirements will not impose significant costs on States, LEAs, or other entities that receive school improvement funds. As noted elsewhere, these requirements will drive school improvement funds to LEAs that have persistently lowest-achieving schools in amounts sufficient to turn those schools around and significantly increase student achievement. They will also require participating LEAs to adopt the most effective approaches to turning around persistently lowest-achieving schools. In short, the Department believes that the requirements will ensure that limited school improvement funds are put to their optimum use—that is, that they will be targeted to where they are most needed and used in the most effective manner possible. The benefits, then, will be more effective schools serving children from low-income families and a better education for those children.

**General Discussion of Comments**

Two commenters claimed that implementing School Improvement Grants will be more costly to States than suggested by the NPR, primarily because the NPR cost/benefit analysis focused on the preparation of SEA applications rather than on implementation costs such as those for technical assistance and the monitoring of LEAs. One commenter cited these and other costs in recommending that the Department use its authority under section 1552 of the ARRA to raise the administrative cap on school improvement funds as well as the administrative cap on section 1003(a) school improvement funds (*i.e.*, the four-percent reservation from Title I, Part A formula grant allocations). Another commenter focused on LEA implementation costs, particularly the need to hire additional staff. This commenter expressed concern that LEAs would be forced to turn to ''expensive consultants,'' recommending instead that the Department (1) cap expenditures of school improvement funds for technical assistance providers to encourage such providers to lower their rates, and (2) provide specific funding for LEAs to hire additional staff to implement the interventions.

Although the Department understands there will be costs to SEAs and LEAs associated with implementing School Improvement Grants, we strongly believe that the benefits of these requirements to the public outweigh the implementation costs. The Department

believes that the State and local costs of implementing the requirements (including State costs of applying for grants, distributing the grants to LEAs, ensuring compliance with the requirements, and reporting to the Department, and LEA costs of applying for subgrants and implementing the interventions) will be financed through the grant funds. The Department does not believe that the requirements will impose a financial burden that SEAs and LEAs will have to meet from non-Federal sources.

SEAs will have significantly more resources to carry out their administrative and technical assistance responsibilities as the State share of school improvement funds is calculated off a base of almost $3.5 billion, a 662 percent increase over the amount an SEA could retain for administration and technical assistance activities in FY 2008. Moreover, as noted earlier in this notice, the Secretary is allocating to SEAs their share of school improvement funds at the same time this notice is being published so that SEAs may access those resources to support State-level preparation activities and technical assistance to LEAs (particularly LEAs with potential Tier I and Tier II schools) in order to move quickly with implementation once an SEA's application is approved. Further, as also mentioned earlier in this notice, the Secretary has used his authority under section 1552 of the ARRA to adjust the statutory caps on State administration under Title I, Part A of the ESEA to allow an SEA to reserve additional State administrative funds to help defray costs associated with data collections that are specifically related to ARRA funding for Title I programs, including school improvement data collection and reporting requirements.

With regard to LEA costs, we intend to issue FAQs to accompany the SEA application package that will address the authority of an LEA to hire additional staff, such as a turnaround specialist, to implement, for example, the turnaround model in a Tier I or Tier II school.

**Need for Federal Regulatory Action**

These final requirements are needed to implement the School Improvement Grants program in FY 2009 in a manner that the Department believes will best enable the program to achieve its objective of supporting comprehensive and effective efforts by LEAs to overcome the challenges faced by the State's persistently lowest-achieving schools that educate concentrations of children living in poverty. The final requirements for an SEA to target school improvement funds on schools that are among the persistently lowest-achieving in the State will ensure that limited Federal funds go to the schools in which they are most needed, including high schools with high dropout rates. The requirement for LEAs receiving school improvement funds to implement one of four specific interventions in certain schools will ensure that those funds are not used for activities that are unlikely to produce the improvement in outcomes that persistently lowest-achieving schools need to achieve.

The reporting requirements included in this notice will ensure that the Department receives limited but essential data on the results of this major Federal investment in school improvement. The Department does not believe that the State and local costs of providing those data will be significant and, as noted earlier, those costs can be met with grant funds.

The definitions will give clearer meaning to some of the terms used elsewhere in the notice.

**Regulatory Alternatives Considered**

A likely alternative to promulgation of these final requirements would have been for the Secretary to allocate the FY 2009 school improvement funds without setting any regulatory requirements governing their use. Under such an alternative, States and LEAs would have been required to meet the statutory requirements, but funds likely would not have been targeted to the persistently lowest-achieving schools and LEAs would likely not have used all the funds for activities most likely to result in a meaningful reform of those schools and significant improvement in the educational outcomes for the students they educate.

**Accounting Statement**

As required by OMB Circular A–4 (available at *http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf*), in the following table, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these final requirements. This table provides our best estimate of the Federal payments to be made to States under this program as a result of these final requirements. Expenditures are classified as transfers to States.

TABLE—ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

| Category | Transfers |
|---|---|
| Annual Monetized Transfers. | $3,545,633,000. |
| From Whom to Whom | Federal Government to States. |

As previously noted, the ARRA provides $3 billion for School Improvement Grants in FY 2009 in addition to the previously appropriated $546 million. The final requirements in this notice govern the total $3.546 billion in FY 2009 school improvement funds.

The requirements will have a distributional impact on the allocation of school improvement funds nationally. The implementation of these requirements will likely result in a larger proportion of program funds flowing to LEAs that have larger concentrations of persistently lowest-achieving schools (Tier I and Tier II schools) and a smaller portion flowing to other LEAs. However, because the FY 2009 appropriation for the program is much larger than the appropriation for FY 2008, the negative impact on the latter category of LEAs may be minimal. The Department is unable to project the amount of the shift but will collect data on the allocations through the procedures described under Reporting and Evaluation.

Regulatory Flexibility Act Certification

The Secretary certifies that these final requirements will not have a significant economic impact on a substantial number of small entities. Under the U.S. Small Business Administration's Size Standards, small entities include small governmental jurisdictions such as cities, towns, or LEAs with a population of less than 50,000. Approximately 11,900 LEAs that receive Title I funds qualify as small entities under this definition. However, the small entities that these final requirements will affect are small LEAs receiving school improvement funds under section 1003(g) of the ESEA—*i.e.*, a small LEA that has one or more schools in improvement, corrective action, or restructuring and that meets the SEA's priorities for greatest need for those funds and demonstrates the strongest commitment to use the funds to provide adequate resources to persistently lowest-achieving schools to raise substantially the achievement of their students.

Preliminary data analyses by the Department suggest that 15 to 25

percent of the persistently lowest-achieving schools in the Nation are located in rural areas, which are likely to contain most of the targeted schools that are operated by small LEAs. Assuming a maximum of 1,000 such schools nationwide, and that few if any rural LEAs will contain more than one of their State's persistently lowest-achieving schools, there would be a range of 150 to 250 small LEAs affected by the final requirements in this notice, including a limited number of small suburban and urban LEAs.

The final requirements in this notice would not have a significant economic impact on these small LEAs because (1) the costs of implementing the required interventions would be covered by the grants received by successful applicants, and (2) in most cases, the costs of developing plans for the interventions and submitting applications would not be significantly higher than the costs that would be incurred in applying for School Improvement Grants under the statutory requirements.

Successful LEAs will receive up to three years of funding under section 1003(g) of the ESEA to implement their selected interventions, consistent with the Secretary's intention that SEAs ensure that awards are of sufficient size and duration to turn around the Nation's persistently lowest-achieving schools.

Small LEAs may incur costs to develop and submit plans for implementing interventions in persistently lowest-achieving schools but, in general, such costs would be similar to those incurred in applying for School Improvement Grant funding under existing statutory requirements. Moreover, since nearly all of the schools included in the applications submitted by small LEAs would be schools that already are in improvement status, these LEAs would be able to incorporate existing data analysis and planning into their applications, at little additional cost. Also, small LEAs may receive technical assistance and other support from their SEAs in developing turnaround plans and applications for these funds.

In addition, the Department believes the benefits provided under this regulatory action will outweigh the burdens on these small LEAs of complying with the final requirements. In particular, the requirements potentially make available to eligible small LEAs significant resources to make the fundamental changes needed to turn around a persistently lowest-achieving school, resources that otherwise may not be available to small and often geographically isolated LEAs.

Paperwork Reduction Act of 1995

This notice contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The Department has received emergency approval for the information collections described below under OMB Control Number 1810–0682.

A description of the specific information collection requirements is provided in the following tables along with estimates of the annual recordkeeping burden for these requirements. The estimates include time for an SEA and an LEA to prepare their respective applications (including requests for waivers), an SEA to review an LEA's application, and an LEA to report data to an SEA and the SEA to report those data to the Department. The first table shows the estimated burden for SEAs and the second table shows the estimated burden for LEAs.

STATE EDUCATIONAL AGENCY ESTIMATE

| SIG activity | Number of SEAs | Hours/activity | Hours | Cost/hour | Cost |
|---|---|---|---|---|---|
| Complete SEA application (including requests for waivers) | 52 | 100 | 5,200 | $30 | $156,000 |
| Review and post LEA applications | 52 | 800 | 41,600 | 30 | 1,248,000 |
| Collect and report school-level data to the Department* | 52 | 80 | 4,160 | 30 | 124,800 |
| Total | | | 50,960 | 30 | 1,528,800 |

*These are data the Department does not currently collect through ED*Facts.*

LOCAL EDUCATIONAL AGENCY ESTIMATE

| SIG activity | Number of LEAs | Hours/activity | Hours | Cost/hour | Cost |
|---|---|---|---|---|---|
| Complete LEA application (including requests for waivers if the SEA does not so request) | 2,550 | 60 | 153,000 | $25 | $3,825,000 |
| Report data to SEA* | 1,000 | 40 | 40,000 | 25 | 1,000,000 |
| Total | | | 193,000 | 25 | 4,825,000 |

*These are data the Department does not currently collect through ED*Facts.*

*Accessible Format:* Individuals with disabilities may obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

*Electronic Access to This Document:* You may view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

**Note:** The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: December 2, 2009.

**Arne Duncan,**

*Secretary of Education.*

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