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Proposed Requirements—School Improvement Grants—Title I of the
Elementary and Secondary Education Act of 1965; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Chapter II

RIN 1810-AB22

[Docket ID ED-2014-OESE-0079]

Proposed Requirements—School Improvement Grants—Title I of the Elementary and Secondary Education Act of 1965

AGENCY: Office of Elementary and Secondary Education, Department of Education (Department).

ACTION: Proposed requirements.

SUMMARY: The U.S. Secretary of Education (Secretary) proposes revising the final requirements for the School Improvement Grants (SIG) program, published in the *Federal Register* on October 28, 2010, authorized under section 1003(g) of title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA), to implement language in the Consolidated Appropriations Act, 2014, that allows local educational agencies (LEAs) to implement additional interventions, provides flexibility for rural LEAs, and extends the grant period from three to five years. Additionally, the proposed requirements make changes that reflect lessons learned from four years of SIG implementation.

DATES: We must receive your comments on or before October 8, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “Are you new to the site?”

- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Elizabeth Ross, U.S. Department of Education, 400 Maryland Avenue SW., room 3C116, Washington, DC 20202.

Privacy Note: The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov.

Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Elizabeth Ross, U.S. Department of Education, 400 Maryland Avenue SW., room 3C116, Washington, DC 20202. Telephone: (202) 260-8961 or by email: Elizabeth.Ross@ed.gov.

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

SUPPLEMENTARY INFORMATION:**Executive Summary**

Purpose of This Regulatory Action: These proposed requirements would implement language in the Consolidated Appropriations Act, 2014, to allow LEAs to implement evidence-based, whole-school reform strategies and State-determined school improvement intervention models, provide flexibility for rural LEAs implementing a SIG intervention, and extend the allowable grant period from three to five years. Additionally, the proposed requirements would make changes that reflect lessons learned from four years of SIG implementation. This regulatory action is authorized by the Consolidated Appropriations Act, 2014 (Public Law 113-76) and 20 U.S.C. 6303(g).

Summary of the Major Provisions of This Regulatory Action: As discussed in more depth in the *Proposed Changes* section of this document, the Department proposes the following revisions to the current SIG requirements to implement language in the Consolidated Appropriations Act, 2014: Allowing five-year SIG awards; adding State-determined school improvement intervention models; adding evidence-based, whole-school reform strategies; and allowing rural LEAs to modify one SIG intervention model element.

The Department also proposes the following revisions to the current SIG requirements to strengthen program implementation based on lessons learned and input from stakeholders: Adding an intervention model that focuses on improving educational outcomes in preschool and early grades, adding an LEA requirement to demonstrate the appropriateness of the chosen intervention model and take into consideration family and community input in the selection of the model; adding an LEA requirement to continuously engage families and the community throughout implementation; adding an LEA requirement to monitor and support intervention

implementation; adding an LEA requirement to regularly review external providers’ performance and hold external providers accountable; eliminating the “rule of nine”; and revising reporting requirements.

The Department proposes the following revisions to current SIG requirements: Modifying the teacher and principal evaluation and support system requirements under the transformation model; clarifying the rigorous review process under the restart model; clarifying renewal criteria; defining “greatest need” to include priority and focus schools for State educational agencies (SEAs) with approved ESEA flexibility requests; clarifying flexibility for previously implemented interventions (in whole or in part); and clarifying requirements related to the posting of LEAs’ SIG applications.

Finally, the Department proposes removing references to fiscal year 2009 and fiscal year 2010 funds and the differentiated accountability pilot because those references are no longer necessary.

Costs and Benefits: The Department believes that the benefits of this regulatory action outweigh any associated costs to SEAs and LEAs, which would be financed with grant funds. The benefits of this action would be more effective State and local actions, using Federal funds, to turn around their lowest-performing schools and achieve significant improvement in educational outcomes for the students attending those schools. Please refer to the *Regulatory Impact Analysis* in this document for a more detailed discussion of costs and benefits.

Consistent with Executive Order 12866, the Secretary has determined that this action is economically significant and, thus, is subject to review by the Office of Management and Budget under the order.

Invitation to Comment: We invite you to submit comments regarding the proposed revisions described in the “Proposed Changes” section of this document. To ensure that your comments have maximum effect in developing the final requirements, we urge you to identify clearly the specific proposed revision that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed requirements. Please let us know of any further ways we could reduce potential costs or increase potential benefits

while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect all public comments about this document by accessing Regulations.gov. You may also inspect the comments in person in Room 3W100, 400 Maryland Avenue SW., Washington, DC, between 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this document. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: In conjunction with title I funds for school improvement reserved under section 1003(a) of the ESEA, SIG funds under section 1003(g) of the ESEA are used to improve student achievement in title I schools identified for improvement, corrective action, or restructuring so as to enable those schools to make adequate yearly progress (AYP) and exit improvement status.

Program Authority: 20 U.S.C. 6303(g); Consolidated Appropriations Act, 2014 (Pub. L. 113–76).

Proposed Requirements

Background

The Department issued final requirements for the SIG program on December 10, 2009 (74 FR 65618). On January 21, 2010, the Department subsequently published interim final requirements (75 FR 3375), which became final on October 28, 2010 (75 FR 66363).

The SIG program provides grants to support rigorous interventions aimed at turning around our Nation's persistently lowest-achieving schools. In general, SEAs that receive funds under the SIG program competitively subgrant those funds to LEAs to implement one of four interventions defined in current requirements: The turnaround model, the restart model, school closure, and the transformation model. In awarding SIG funds, an SEA must give priority to LEAs with the lowest-achieving schools that 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 meet their goals for substantially raising the achievement of their students.

Division H, title III of the Consolidated Appropriations Act, 2014 (Public Law 113–76), signed into law on January 17, 2014, made significant changes to the SIG program. These proposed requirements would implement these changes, make other revisions that reflect lessons learned from four years of SIG implementation, and help ensure consistency between this program and other Department initiatives.

In interpreting the relevant provisions of the Consolidated Appropriations Act, 2014, and in considering changes to the current requirements, the Department was guided by the following principles: (1) Preserve and protect the key benefits and rigor of the SIG program, which has helped SEAs and LEAs implement rigorous, comprehensive interventions in their lowest-performing schools; (2) minimize disruption to existing State and local program implementation; and (3) strengthen program implementation wherever possible based on lessons learned and input from stakeholders.

The requirements proposed here would apply to the LEA subgrant competitions that SEAs conduct during the 2014–2015 school year for implementation beginning in the 2015–2016 school year.

Proposed Changes

Allowing Five-Year Awards

Current Requirements: Consistent with the current requirements, SEAs make competitive awards for up to three years to LEAs to implement SIG interventions in eligible schools.

Proposed Requirements: Under the proposed requirements in section II.A.3, II.A.2(e)(1), II.C.4, and II.C.5, described in detail below, the Department would allow an SEA to make a SIG award to an LEA for up to five years, of which the LEA may use one school year for planning and other pre-implementation activities, must use at least three school years for full implementation of the selected interventions, and may use up to two school years for activities related to sustaining reforms following at least three years of full intervention implementation. If an LEA receives funding for a school year for planning and other pre-implementation activities, it would be eligible for only one year of funding for activities related to sustaining reforms following full intervention implementation. An LEA

may not receive more than five years of continuous funding for the implementation of a single SIG intervention with respect to any particular school.

Specifically, the Department proposes adding in section II.A.3 (LEA requirements) a requirement that an LEA that intends to use the first year of its SIG award for planning and other pre-implementation activities for an eligible school must include in its application to the SEA a description of the planning or pre-implementation activities it will undertake, the timeline for implementing those activities, and a description of how those activities will lead to successful implementation of the selected intervention.

In section II.A.2(e)(1), the Department also proposes to explicitly require an LEA to fully implement a SIG intervention in a school for at least three years (subject to the SEA's renewal authority), consistent with the current requirements.

The Department also proposes adding two requirements regarding renewal of annual SIG awards to section II.C of the current requirements. First, we propose in section II.C.4 that prior to renewing the SIG award of an LEA that received SIG funds for a school year of planning and other pre-implementation activities for a school, an SEA would be required to review the performance of the school against the LEA's approved application. The SEA would conduct this review to determine whether the LEA will be able to fully implement its chosen intervention for the school beginning the first day of the following school year. Second, the Department proposes in section II.C.5 to permit an SEA to renew an LEA's SIG award for a school, after three years of full implementation of an intervention in that school, for up to two additional years for continued full implementation of the intervention or for activities that are related to sustaining reforms (but do not constitute full intervention implementation), based on the same criteria that an SEA considers in making renewal decisions under section II.C.1–II.C.2. Under this proposal, an LEA would not be permitted to receive more than five years of continuous SIG funding with respect to any particular school.

Reasons: The Consolidated Appropriations Act, 2014, allows the Secretary to permit an SEA to establish an award period of up to five years for each participating LEA, thereby providing more time than allowed under current requirements for LEAs to implement SIG interventions. Additionally, the Department's proposed requirements would allow

flexibility in two important ways to strengthen SIG implementation. First, the proposed requirements allow one school year for LEA planning prior to full implementation of a SIG intervention for those LEAs and schools that would benefit from that time. Although an LEA may currently use SIG funds for the planning and other activities it conducts between the time it receives a SIG award and the beginning of the first school year of implementation (*i.e.*, the following school year), the Department has determined that this “pre-implementation” period may not be sufficient to ensure that LEAs are prepared to implement SIG interventions effectively at the beginning of the first school year of implementation. For example, SEAs typically make SIG awards to LEAs in spring or early summer, which in some LEAs is after personnel contracts have been negotiated and signed for the following school year, thus preventing the personnel changes required by certain SIG interventions. Accordingly, the additional planning time permitted under the proposed requirements may lead to greater success in implementation by recognizing the long lead times that may be necessary to make the fundamental structural and personnel changes required by SIG interventions and to engage sufficiently school staff, families, and the broader community in the planning and pre-implementation work of turning around a low-performing school. This proposed requirement would not affect the requirement to implement an intervention for a full school year in order for that school year to count as one of the three required years of full implementation.

To help ensure that a planning year in a particular school will lead to greater success in implementation, the proposed requirements require (1) an LEA seeking funds for a planning year in a particular school to describe in its application to the SEA the planning or pre-implementation activities it will undertake, the timeline for implementing those activities, and a description of how those activities will lead to successful implementation of the selected intervention and (2) an SEA to review the school’s performance during the planning year against the LEA’s approved application prior to renewing the portion of the LEA’s grant for that school for full implementation in the following school year.

Second, the proposed requirements address the difficulty that LEAs may face in sustaining SIG-funded reforms after the implementation period by

permitting an SEA to renew an LEA’s SIG award for each school for up to two additional years for sustainability-related activities, based on the same criteria that an SEA considers in making renewal decisions under section II.C.1–II.C.2. LEAs could use this additional time to ensure that SIG reforms have been successfully integrated into each school’s ongoing operations. The Department expects that LEAs will request lower funding amounts for planning- and sustainability-related activities as compared to amounts for the years of full intervention implementation because these activities should be less costly than those related to full implementation.

Adding State-Determined School Improvement Intervention Models

Current Requirements: None.

Proposed Requirements: The Department proposes in section I.A.2(g) to allow an LEA to use SIG funds to implement, in one or more SIG-eligible schools, a State-determined intervention model that has been developed or adopted by its SEA and that has been approved by the Secretary.

Under section II.B.1(b) of the proposed requirements, each SEA may submit, as part of its SIG application to the Department, one State-determined intervention model for review and approval by the Secretary. Under this proposal, a State-determined intervention model must (1) be aligned with the “turnaround principles” established under ESEA flexibility¹ and (2) provide for increased learning time (ILT), as defined in the current requirements and unchanged in these proposed requirements.² Specifically, to

¹ “ESEA flexibility” refers to flexibility the Department offered SEAs regarding specific requirements of the ESEA in exchange for rigorous and comprehensive State-developed plans designed to improve educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction. Forty-three States, the District of Columbia, and Puerto Rico are approved for ESEA flexibility. More information about ESEA flexibility, including detailed information about the turnaround principles, can be found in the document ESEA Flexibility, updated June 7, 2012, available at <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>.

² The current requirements define ILT as 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

be approved under proposed section II.B.1(b), a State-determined intervention model would be required to:

(1) Ensure strong leadership by: (A) Requiring a review of the performance of the current principal; (B) requiring replacement of the principal, if such a change is necessary to ensure strong and effective leadership, or requiring the LEA to demonstrate to the SEA that the current principal has a track record in improving achievement and has the ability to lead the turnaround effort; and (C) requiring the LEA to provide the principal with operational flexibility in the areas of scheduling, staff, curriculum, and budget;

(2) Ensure that teachers are effective and able to improve instruction by: (A) Requiring a review of all staff and retaining only those who are determined to be effective and to have the ability to be successful in supporting the turnaround effort; (B) preventing ineffective teachers from transferring to a SIG-funded school; and (C) providing job-embedded, ongoing professional development informed by the teacher evaluation and support systems and tied to teachers’ and students’ needs;

(3) Establish schedules and implement strategies that provide ILT;

(4) Strengthen the school’s instructional program by ensuring that it (A) is research-based, rigorous, and aligned with State academic content standards; and (B) meets students’ needs;

(5) Use data to inform instruction and for continuous improvement, including through the provision of time for collaboration on the use of data;

(6) Establish a school environment that improves school safety and discipline and addresses other non-academic factors that impact student achievement, such as students’ social, emotional, and health needs; and

(7) Provide ongoing mechanisms for family and community engagement.

An intervention that the Secretary approved as part of an SEA’s ESEA flexibility request that also includes ILT would be considered to have met these criteria.

Reasons: The Consolidated Appropriations Act, 2014, permits an LEA to use SIG funds to implement a State-determined intervention model that has been approved by the Secretary.

As part of ESEA flexibility, the Department established the “turnaround principles” to guide SEAs in developing rigorous interventions to turn around

(c) Teachers to collaborate, plan, and engage in professional development within and across grades and subjects.

their “priority” schools, as those schools are defined in ESEA flexibility. The turnaround principles are based on the elements of the SIG transformation model, but provide additional flexibility with respect to replacing the principal and implementing ILT. This additional flexibility reflects, in part, the recognition that LEAs with priority schools may not receive additional funding through the SIG program to support the implementation of interventions in these schools. The Department believes, based on experience thus far with SIG and ESEA flexibility, that the turnaround principles provide a baseline expectation for the elements of comprehensive, whole-school reform consistent with the purpose of the SIG program and, thus, reflect appropriate criteria for use by the Secretary in approving a State-determined intervention model. Further, linking approval of State-determined intervention models to the turnaround principles will facilitate and simplify the approval and implementation process for this new intervention model because many States have already developed rigorous interventions for their priority schools under ESEA flexibility that are consistent with the turnaround principles. SEAs that receive approval of their State-determined intervention model would then be able to use SIG funds to support their multi-year plans under ESEA flexibility for implementing rigorous interventions in their priority schools that meet the definition of “priority schools” in ESEA flexibility.

In addition to ensuring that any State-determined intervention model is consistent with the turnaround principles, the proposed requirements provide that a State-determined intervention model must include the implementation of ILT. The Department believes that the comprehensive implementation of ILT would provide essential support for key improvements in teaching and learning required by interventions consistent with the turnaround principles, and thus should be included in any State-determined intervention model approved by the Secretary. The Department did not explicitly include ILT in the turnaround principles of ESEA flexibility due to its potential costs, which may exceed the resources available to SEAs and LEAs to support priority interventions in the absence of SIG or other dedicated turnaround funds. However, the availability of up to \$2 million annually for a school implementing an approved State-determined intervention model

through the SIG program mitigates such resource limitation concerns.

Evidence from the field shows that increasing learning time in a strategic, high-quality manner is often a key element of successful school turnaround. For example, *The Case for Improving and Expanding Time in School: A Review of Key Research and Practice*, published in April 2012 by the National Center on Time and Learning (NCTL) and available at www.timeandlearning.org/files/CaseforMoreTime_1.pdf, summarizes evidence demonstrating that a longer school day and longer school year implemented consistently with the principles of ILT can have a meaningful impact on improving student achievement. Providing time to allow for enrichment activities, teacher collaboration, and professional development, in addition to instruction in core academic subjects including math, science, and reading, is key to ensuring success.

Adding Evidence-Based, Whole-School Reform Strategies

Current Requirements: None.

Proposed Requirements: Section I.A.2(e) of the proposed requirements would allow an LEA to use SIG funds to implement, in partnership with a strategy developer, an evidence-based, whole-school reform strategy in a school. Under this proposed requirement, such a strategy must have evidence of effectiveness that includes at least two studies that meet What Works Clearinghouse evidence standards with or without reservations (*i.e.*, qualifying experimental or quasi-experimental studies) and that found a statistically significant favorable impact on a student academic achievement or attainment outcome, with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse.³

The proposed requirements include two related definitions. First, the proposed requirements in section I.A.3 define “whole-school reform strategy” as a strategy that (1) is designed to improve student academic achievement or attainment; (2) is implemented for all students in a school; and (3) addresses, at a minimum and in a comprehensive and coordinated manner, school leadership, teaching and learning in at

least one full academic content area (including professional learning for educators), student non-academic support, and family and community engagement.⁴ Second, the proposed requirements define “strategy developer” as an entity or individual that maintains proprietary rights for the strategy or, if no entity or individual maintains proprietary rights for the strategy, an entity or individual that has a demonstrated record of success in implementing the strategy in one or more low-achieving schools or that, together with a partner LEA, has a high-quality plan for implementing the strategy in a school.

Finally, the Department proposes adding section I.A.4(a)(10) (Evidence of strongest commitment), which would require the SEA, when considering the strength of the LEA’s commitment, to evaluate the extent to which an LEA that is proposing to implement an evidence-based, whole-school reform strategy in a school demonstrates that the evidence supporting the strategy it proposes to implement includes a sample population or setting similar to the population or setting of the school to be served. The SEA would also consider the extent to which the LEA has demonstrated that it has partnered with a strategy developer that meets the proposed definition of “strategy developer.” Notably, under proposed section II.A.2(c), an LEA would have to provide evidence of its strong commitment to use SIG funds to implement the selected intervention by addressing the factors in section I.A.4(a), and under proposed section II.B.2(b)(2), the SEA would have to ensure that the LEA’s application makes the required demonstration prior to approving the LEA’s application.

Reasons: The Consolidated Appropriations Act, 2014, permits an LEA to use SIG funds to implement, in partnership with a strategy developer, a

⁴ The Department intends to invite strategy developers and other entities to submit prospective strategies and research studies of the effectiveness of those strategies for review against the proposed evidence requirement discussed in the preceding paragraph and the requirements of the proposed definition of “whole-school reform strategy.” The Department intends to identify, from among the strategies submitted for review, those that meet requirements in advance of SEAs’ competitions for fiscal year 2014 SIG funds. An LEA seeking to use SIG funds to implement, in partnership with a strategy developer, an evidence-based, whole-school reform strategy would be permitted to choose from among the strategies so identified by the Department.

The Department will provide information regarding the submission and review of prospective strategies on its Web site at <http://www.ed.gov/programs/sif/npr-wholeschlrreform.html>, and may re-open the submission and review process, if necessary, based on the final requirements.

³ What Works Clearinghouse Procedures and Standards Handbook (Version 3.0), which can currently be found at the following link: http://ies.ed.gov/ncee/wwc/pdf/reference_resources/wwc-procedures_v3_0_standards_handbook.pdf.

whole-school reform strategy that is based on at least a moderate level of evidence that the strategy will have a statistically significant effect on student outcomes, including more than one experimental or quasi-experimental study. In addition, as stated in its report accompanying its fiscal year 2014 appropriations bill for the Department (Senate Report 113–71), the Senate Appropriations Committee expects that any approach taken with SIG funds will address schoolwide factors, including, for example, curriculum and instruction, social and emotional support services for students, and training and support for teachers and school leaders. The proposed requirements described in this section are intended to implement the Consolidated Appropriations Act, 2014, provision in a manner consistent with the Senate Committee report language.

The Department notes that 34 CFR 77.1 (Definitions that apply to all Department programs) defines “moderate evidence of effectiveness” as including *at least one* study that, among other things, meets What Works Clearinghouse evidence standards with or without reservations and found a statistically significant favorable impact on a relevant outcome. Because the provision in the Consolidated Appropriations Act, 2014, requires *more than one* such study as evidence of a strategy’s effectiveness, the Department cannot use the definition of “moderate evidence of effectiveness” in 34 CFR 77.1 to implement the provision and must instead propose the program-specific evidence requirement in section I.A.2(e).

The proposed definition of “whole-school reform strategy” is intended to ensure that a strategy implemented by an LEA is consistent not only with the Senate Committee report language but also with evidence from the field and the research literature on whole-school reform by specifying that the strategy address, in a comprehensive and coordinated manner, schoolwide factors essential to successful school turnaround efforts.⁵

The proposed definition of “strategy developer,” as well as the related proposed requirements regarding whether an LEA has partnered with a

strategy developer that meets the proposed definition, are intended to ensure that the entity or individual with whom an LEA partners to implement an evidence-based, whole-school reform strategy possesses the required qualifications or has a high-quality plan for successful implementation of the strategy in an eligible school.

Finally, the proposed requirements regarding whether the evidence of effectiveness for a strategy proposed for implementation in a school includes a sample overlapping with the populations or settings of that school are intended to ensure the relevance and appropriateness of the strategy for the students and the school.

Rural LEAs’ Modification of One SIG Intervention Model Element

Current Requirements: None.

Proposed Requirements: The Department proposes to add a provision in section I.B.6 to permit an LEA that is eligible for services under subpart 1 or 2 of part B of title VI of the ESEA (referred to herein as a rural LEA) to modify one element of the turnaround or transformation model so long as the modification meets the intent and purpose of the original element.

The Department also proposes to modify the language introducing the turnaround and transformation models’ requirements in sections I.A.2(a) and I.A.2(d) of the current requirements to clarify that those models’ requirements are “elements.” Other than the proposed changes discussed in the following section, the Department is not proposing to substantively change the elements of the turnaround and transformation models themselves.

Additionally, the Department proposes adding section I.A.4(a)(9) (Evidence of strongest commitment), which would require the SEA, when considering the strength of the LEA’s commitment, to evaluate the extent to which a rural LEA applying to implement the turnaround or transformation model and modify one element of that model has demonstrated that it will meet the intent and purpose of the original element. For example, if a rural LEA applying to implement a turnaround model seeks to modify the element of the model that requires the LEA to replace the principal, the LEA must demonstrate in its application how it will ensure strong leadership in the school. The LEA could do this by demonstrating to the SEA that the current principal has a track record in improving student achievement and has the experience and skills needed to implement the intervention.

Finally, the Department proposes adding reporting requirements to section III.A.3 that would require an SEA to report, with respect to schools receiving SIG funds, the number of schools implementing models with a modified element pursuant to proposed section I.B.6 and which models are being implemented in those schools.

Reasons: The Consolidated Appropriations Act, 2014, permits an LEA eligible for services under subpart 1 or 2 of part B of title VI of the ESEA (Rural Education Achievement Program) to modify not more than one element of a SIG intervention model. The proposed requirements are intended to implement this flexibility while maintaining the integrity of the SIG intervention models in the current requirements and ensuring that the reporting requirements capture relevant information about LEAs availing themselves of this flexibility.

Adding Early Learning Intervention Model

Current Requirements: None.

Proposed Requirements: Section I.A.2(f) of the proposed requirements would allow an LEA to use SIG funds to implement an early learning intervention model in an elementary school. Under this proposed requirement, an LEA implementing the early learning intervention model in an elementary school must—

- (1) Implement each of the following early learning strategies—
 - (A) Offer full-day kindergarten;
 - (B) Establish or expand a high-quality preschool program;
 - (C) Provide educators, including preschool teachers, with time for joint planning across grades to facilitate effective teaching and learning and positive teacher-student interactions.
- (2) Replace the principal who led the school prior to commencement of the early learning model;
- (3) Implement the same rigorous, transparent, and equitable evaluation and support systems for teachers and principals, designed and developed with teacher and principal involvement, that the Department proposes to require under the transformation model;
- (4) Use the teacher and principal evaluation and support system to identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;
- (5) Implement such strategies as financial incentives, increased

⁵Stringfield, S., Millsap, M., Yoder, N., Schaffer, E., Nesselrodt, P., Gamse, B., Brigham, N., Moss, M., Herman, R., & Bedinger, S. (1997). *Special strategies studies final report*. Washington, DC: U.S. Department of Education. An executive summary of the report is available at www.csos.jhu.edu/Otherlinks/SpecialStrategies/intro.htm, finding that “[s]tudents in schools working with whole school reform tended to achieve greater gains than did students in schools attempting various pull-out programs.”

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 students in the school, taking into consideration the results from the teacher and principal evaluation and support system, if applicable;

(6) Use data to identify and implement an instructional program that (a) is research-based, developmentally appropriate, and vertically aligned from one grade to the next as well as aligned with State early learning and development standards and State academic standards and (b) in the early grades, promotes the full range of academic content across domains of development, including math and science, language and literacy, socio-emotional skills, self-regulation, and executive functions;

(7) 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 educational and developmental needs of individual students; and

(8) Provide staff ongoing, high-quality, job-embedded professional development such as coaching and mentoring (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 implement successfully school reform strategies.

The Department also proposes adding to section I.A.3 the definition of "high-quality preschool program" based on the definition that is used in the Preschool Development Grants program.⁶ Under this definition, "high-quality preschool program" would mean an early learning program that includes structural elements that are evidence-based and nationally recognized as important for ensuring program quality, including at a minimum—

(1) High staff qualifications, including a teacher with a bachelor's degree in early childhood education or a bachelor's degree in any field with a State-approved alternate pathway, which may include coursework, clinical practice, and evidence of knowledge of content and pedagogy relating to early

childhood, and teaching assistants with appropriate credentials;

(2) High-quality professional development for all staff;

(3) A child-to-instructional staff ratio of no more than 10 to 1;

(4) A class size of no more than 20 with, at a minimum, one teacher with high staff qualifications as outlined in paragraph (1) of this definition;

(5) A full-day program;

(6) Inclusion of children with disabilities to ensure access to and full participation in all opportunities;

(7) Developmentally appropriate, culturally and linguistically responsive instruction and evidence-based curricula, and learning environments that are aligned with the State early learning and development standards, for at least the year prior to kindergarten entry;

(8) Individualized accommodations and supports so that all children can access and participate fully in learning activities;

(9) Instructional staff salaries that are comparable to the salaries of local kindergarten through grade 12 (K–12) instructional staff;

(10) Program evaluation to ensure continuous improvement;

(11) On-site or accessible comprehensive services for children and community partnerships that promote families' access to services that support their children's learning and development; and

(12) Evidence-based health and safety standards.

Reasons: Strong and consistent evidence demonstrates that participation in high-quality early learning programs can lead to both short- and long-term positive outcomes for all children, including improved school readiness, lower rates of grade retention and placement in special education, improved high school graduation rates, and increased rates of college attendance and completion.⁷

Educational improvement strategies that focus on preschool and the early grades can address the persistent and large achievement gaps by race and income that are evident upon school entry, and often well-entrenched by third grade, and that negatively affect both individual student outcomes in later grades and overall school performance.

In "Investing in our Future: The Evidence Base on Preschool Education,"

⁷ See "Investing in our Future: The Evidence Base on Preschool Education" (available at <http://fcd-us.org/sites/default/files/Evidence%20Base%20on%20Preschool%20Education%20FINAL.pdf>). Society for Research in Child Development and the Foundation for Child Development, October 2013.

published by the Society for Research in Child Development and the Foundation for Child Development, a group of leading researchers contend that the effects of preschool may be more sustainable through the implementation and evaluation of policies that increase the quality of preschool programs, facilitate alignment of instructional practices between preschool and early elementary school, and enhance the positive impact that parents have on their child's development.⁸

Traditional early elementary practice has not evolved as quickly as new advances in the science of how children develop and learn have emerged. Implementing a more comprehensive and aligned instructional program that builds on the foundational processes that underlie children's learning in the early years, such as self-regulation, representation, memory, and attachment, can build a strong foundation of learning that will remain with children throughout their education and life.

To that end, the Department also proposes adopting the definition of "high-quality preschool program" used in the Preschool Development Grants program. We believe this definition is appropriate in the SIG program as well because it includes key elements of a successful preschool program that will lead to lasting educational gains.

In addition to the requirements focused on early learning, the proposed early learning intervention model includes a number of strategies that are aligned with existing transformation model requirements. This reflects the Department's belief, based on experience thus far with the SIG program, that the transformation model requirements provide an appropriate framework for maximizing the benefits of high-quality early learning while also improving student, teacher, and school performance in the upper grades, consistent with the SIG program's purpose to facilitate successful turnaround of the entire school.

Modifying the Teacher and Principal Evaluation and Support System Requirements Under the Transformation Model

Current Requirements: Under section I.A.2(d)(a)(i)(B), an LEA implementing the transformation model must use an evaluation system for teachers and principals that (1) takes into account data on student growth as a significant factor as well as other factors and (2) is designed and developed with teacher and principal involvement.

⁸ *Ibid.*

⁶ See the notice inviting applications for the Preschool Development Grants program, published in the **Federal Register** on August 18, 2014 (79 FR 48853).

Proposed Requirements: Proposed section I.A.2(d)(1)(A)(ii) revises the current requirements and would require an LEA implementing the transformation model to implement a teacher and principal evaluation and support system that meets the requirements for these systems under ESEA flexibility. Specifically, under ESEA flexibility, a teacher and principal evaluation and support system must be designed and developed with teacher and principal involvement and must also:

(1) Be used for continual improvement of instruction;

(2) Meaningfully differentiate performance using at least three performance levels;

(3) Use multiple valid measures in determining performance levels, including as a significant factor data on student growth for all students (including English learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources, such as observations based on rigorous teacher performance standards, teacher portfolios, and student and parent surveys);

(4) Evaluate teachers and principals on a regular basis;

(5) Provide clear, timely, and useful feedback, including feedback that identifies needs and guides professional development; and

(6) Be used to inform personnel decisions.

The Department also proposes amending the definition of “student growth” in section I.A.3 to align it with the definition under ESEA flexibility, such that it is defined as the change in student achievement for an individual student between two or more points in time. For the purposes of the proposed definition of “student growth,” “student achievement” would mean, (1) for grades and subjects in which assessments are required under section 1111(b)(3) of the ESEA, (a) a student’s score on such assessments and may include (b) other measures of student learning, provided they are rigorous and comparable across schools within an LEA; and (2) for grades and subjects in which assessments are not required under section 1111(b)(3) of the ESEA, alternative measures of student learning and performance, such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous

and comparable across schools within an LEA.

The Department also proposes moving current requirement I.A.2(d)(1)(i)(D) (requiring an LEA implementing the transformation model in a school to provide staff ongoing, high-quality professional development that is aligned with the school’s comprehensive instructional program and designed with school staff) from the section regarding developing and increasing teacher and school leader effectiveness to the section regarding comprehensive instruction reform strategies, in proposed requirement I.A.(2)(d)(2)(A)(iii).

Reasons: After publishing the current requirements, the Department discovered that they erroneously omit certain requirements from the teacher and principal evaluation and support system requirements in section I.A.2(d)(1)(i)(B). Specifically, the transformation model requires that an LEA: (1) Identify and reward school leaders, teachers, and other staff; (2) provide staff ongoing high-quality job-embedded professional development; and (3) implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions. The Department intended to require that the teacher and principal evaluation and support systems be used for those three activities but, due to a numbering error in the current requirements, did not implement that requirement.

After the Department published the current requirements, the Department established requirements for teacher and principal evaluation and support systems implemented by LEAs under ESEA flexibility. The Department believes, based on prior SIG and ESEA flexibility implementation, that high-quality teacher and principal evaluation and support systems that meet those requirements will provide meaningful information about the effectiveness of teachers and principals, can be used to inform professional development and improve practice, and will ultimately increase the quality of instruction for all students.

The Department proposes aligning the requirements for teacher and principal evaluation and support systems under the SIG transformation model with the requirements under ESEA flexibility, including the definition of “student growth,” for several reasons. First, the proposed requirement fills the gap created by the accidental omission in the current requirements to ensure that teacher and principal evaluation and support systems under the

transformation model are used to inform personnel decisions and professional development. Second, it clarifies that teacher and principal evaluation and support systems implemented as part of ESEA flexibility satisfy the requirements of the SIG transformation model, which would reduce the burden on LEAs in SEAs with approved ESEA flexibility requests because they would not have to implement separate evaluation systems. Lastly, the proposal would help to ensure consistency across Department programs.

Finally, the Department proposes moving the professional development requirement in order to distinguish that requirement from the requirements that pertain directly to the teacher and principal evaluation and support systems. The proposal to move the professional development requirement does not change in any way the requirement itself.

Eliminating the “Rule of Nine”

Current Requirements: Under section II.A.2(b) of the current requirements, if an LEA has nine or more Tier I and Tier II schools, the LEA may not implement the transformation model in more than half of those schools (the “rule of nine”).

Proposed Requirements: The proposed requirements eliminate the “rule of nine.”

Reasons: The Department created the “rule of nine” in response to evidence and data on school improvement practices under section 1116 of the ESEA suggesting that turning around chronically low-performing schools (those identified for restructuring under section 1116(b)(8)(B)(v) of the ESEA) required significant changes in governance, leadership, and staffing. Moreover, the data suggested that many LEAs were reluctant to make such fundamental, structural changes in their schools, as demonstrated by the preference for the “any other major restructuring” option for schools identified for restructuring, which, despite the name, does not actually require specific changes in school staffing, structure, or governance. The “rule of nine” also was intended to help ensure that LEAs applying for SIG funds selected intervention models for their eligible Tier I and Tier II schools on the basis of comprehensive needs analyses reflecting the unique characteristics and circumstances of each school, and not by simply implementing the same model in all their eligible schools.

The Department is proposing to eliminate the “rule of nine” for several reasons. First, with the addition of the three new interventions in proposed

sections I.A.2(e)–(g) and the flexibility for rural LEAs in proposed section I.B.6, the Department is proposing making the SIG program more flexible for SEAs and LEAs. A rule limiting the specific interventions that an LEA may implement is inconsistent with that flexibility. Second, State-reported data on SIG interventions suggest that the “rule of nine” did not have an impact on which intervention models most LEAs with nine or more Tier I and Tier II schools chose to implement. Third, drawing on its experience of SIG implementation since the award of fiscal year 2009 funds, the Department believes the most important factors in selecting an appropriate model for a SIG-eligible school are the particular circumstances and needs of the school and the specific interventions to be implemented.

For these reasons, and as discussed in the following section, the Department proposes requiring an LEA to demonstrate in its application that the proposed intervention meets the specific needs of each school it proposes to serve with SIG funds.

Adding LEA Requirement To Demonstrate Appropriateness of Chosen Intervention Model and Take Into Consideration Family and Community Input

Current Requirements: Under section I.A.4(a)(i) and section II.B.2(b)(ii), an SEA must consider the extent to which an LEA’s application demonstrates that it has taken action or will take action to analyze the needs of the schools it applies to serve. Under section II.A.2(a)(iv), an LEA must address the extent to which it has taken action or will take action to analyze the needs of the schools it applies to serve in its application to the SEA.

Proposed Requirements: The Department proposes revising the needs analysis requirement in section I.A.4(a)(1) to provide that an SEA must take into account the extent to which an LEA (1) includes a demonstration in its application that the intervention selected for each eligible school is designed to meet the specific needs of the school, based on a needs analysis that, among other things, analyzes the school improvement needs identified by families and the community, and (2) takes into consideration family and community input in selecting the intervention for each school.

Reasons: Although under the current requirements an LEA is required to address the needs of its SIG-eligible schools, there is no requirement that the LEA demonstrate that the intervention selected is the most appropriate option

for meeting the specific needs of the school. There is also no current requirement that the needs analysis must reflect the needs identified based on family and community input. Although currently allowable, in order to ensure that an LEA implements an appropriate intervention for each school it proposes to serve with SIG funds and that input from families and the community is taken into consideration when selecting an intervention, the Department proposes to require the SEA to consider the extent to which the LEA has demonstrated that the selected intervention responds to the particular circumstances and needs of the school, taking into consideration family and community input.

Adding LEA Requirement to Continuously Engage Families and the Community Throughout Implementation

Current Requirements: Although under section I.A.2(d)(3)(A)(ii) of the current requirements an LEA implementing the transformation model must provide ongoing mechanisms for family and community engagement, no similar requirement regarding family and community engagement applies to all LEAs that receive SIG funds, regardless of the intervention model implemented.

Proposed Requirements: The Department proposes adding section I.A.4(a)(8) (Evidence of strongest commitment), which would require an SEA to consider the extent to which the LEA’s application demonstrates how the LEA will meaningfully engage families and the community in the implementation of the intervention on an ongoing basis.

Reasons: Family and community engagement in selecting an intervention is important for ensuring local support for a successful turnaround, as reflected in proposed requirement I.A.4(a)(1). However, ongoing family and community engagement is also essential to support student learning and ensure effective implementation of reform strategies. Families and community organizations are key partners in creating a culture of achievement and addressing students’ social, emotional, and health needs.

Adding LEA Requirement to Monitor and Support Intervention Implementation

Current Requirements: None.

Proposed Requirements: The Department proposes adding section I.A.4(a)(7) (Evidence of strongest commitment) to require an SEA to consider the extent to which the LEA’s

application demonstrates how the LEA will provide effective oversight and support for implementation of interventions in its schools by, for example, creating an LEA turnaround office.

Reasons: Through monitoring and interaction with LEAs and SEAs, the Department has found that LEA-level activities and structures are key to supporting a successful school turnaround. The proposed requirements would ensure that LEAs focus on monitoring and supporting turnaround efforts in their schools, including establishing or modifying their governance structures.

Adding LEA Requirements to Regularly Review External Providers’ Performance and Hold External Providers Accountable

Current Requirements: Under section I.A.4(a)(iii) and section II.B.2(b)(ii), an SEA must consider the extent to which an LEA’s application demonstrates that an LEA has recruited, screened, and selected (or will recruit, screen, and select) external providers, if applicable, to ensure their quality. Under section II.A.2(a)(iv), an LEA must address in its application to the SEA the extent to which it has recruited, screened, and selected (or will recruit, screen, and select) external providers, if applicable, to ensure their quality. Under section II.A.9, an LEA that implements a restart model must hold the charter school operator, charter management organization (CMO), or education management organization (EMO) accountable for meeting the SIG requirements.

Proposed Requirements: The Department proposes several changes to the provision regarding the recruitment, screening, and selection of external providers. Specifically, in proposed section I.A.4(a)(4) (Evidence of strongest commitment), in addition to the current requirement that an SEA consider the extent to which the LEA’s application demonstrates that the LEA will recruit, screen, and select external providers to ensure their quality, we would require an SEA to consider the extent to which the LEA’s application demonstrates that the LEA will regularly review the external provider’s performance and hold the external provider accountable for its performance. Finally, in proposed section II.A.9, the Department proposes requiring an LEA to hold an external provider accountable for meeting the SIG requirements, regardless of which model the LEA is implementing.

Reasons: Although under the current requirements an SEA must consider the extent to which the LEA will screen and

select external providers, there is no requirement that the SEA consider how an LEA will review external provider performance or hold external providers accountable for their performance. By requiring that LEAs take a performance management approach to working with external providers, the Department is helping to ensure that providers are fulfilling the obligations under their memoranda of understanding (MOUs), contracts, or other agreements and are held accountable for contributing to increased student achievement in schools that are implementing a SIG model. The Department expects that, to meet the proposed requirement, an LEA will include, in an MOU, contract, or other agreement with a provider, the LEA's expectations for how the provider will perform and be evaluated throughout the period of the grant.

Clarifying Rigorous Review Process Under the Restart Model

Current Requirements: Under section I.A.2(b), an LEA may use funds to implement the restart model, under which the LEA converts a school or closes and reopens a school under a charter school operator, a CMO, or an EMO that has been selected through a rigorous review process. The current requirements do not specify the criteria for such a review, nor do they expressly establish a role for the SEA in the review and selection of the restart partner.

Proposed Requirements: The Department proposes adding section I.A.4(a)(11) (Evidence of strongest commitment), which would require an SEA to consider the extent to which the LEA's application demonstrates that it will conduct a rigorous review process in selecting the charter school operator, CMO, or EMO to operate or manage the school or schools it proposes to serve with SIG funds. Under the proposed requirements in section I.A.2(b)(1), the rigorous review process must include a determination by the LEA that the charter school operator, CMO, or EMO is likely to produce strong results for the school. In making that determination, the LEA must consider the extent to which the schools currently operated or managed by the selected charter school operator, CMO, or EMO, if any, have produced strong results over the past three years (or over the life of the school or schools, if open for fewer than three years), including—

- (1) Significant improvement in academic achievement for the groups of students described in section 1111(b)(2)(C)(v) of the ESEA;
- (2) Success in closing achievement gaps, either within schools or relative to

all public elementary school and secondary school students statewide, for all of the groups of students described in section 1111(b)(2)(C)(v)(II) of the ESEA;

(3) High school graduation rates, where applicable, that are above the average rates in the State for the groups of students described in section 1111(b)(2)(C)(v) of the ESEA; and

(4) No significant compliance issues, including in the areas of civil rights, financial management, and student safety.

Reasons: The Department believes that additional safeguards beyond those in the current requirements are needed to ensure that LEAs implementing a restart model do so in a manner that is likely to result in improved academic achievement and attainment outcomes for students. Specifically, we believe that the recent performance of schools currently operated or managed by an LEA's restart partner is a key predictor of success that must be considered, as research indicates that schools opened by a CMO or EMO typically perform at a level similar to the average of the other schools managed by that organization.⁹

The four factors the Department proposes requiring an LEA to consider in determining whether a charter school operator, CMO, or EMO has produced strong results are aligned with the factors that we have used over the last several years in the definition of "high-quality charter school" for the Charter Schools Program Grants for Replication and Expansion of High-Quality Charter Schools. We believe these factors are appropriate for use in the SIG program as well because they involve the key criteria that should be used when considering the past performance of a charter school operator, CMO, or EMO as it pertains to student achievement, other educational outcomes, and important areas of compliance.¹⁰

We note that the proposed requirements would not preclude an LEA from considering other factors in determining whether an LEA's selected charter school operator, CMO, or EMO is likely to produce strong results for the school. They also would not prevent an LEA from selecting a charter school operator, CMO, or EMO that does not currently operate or manage any schools. However, we expect an SEA to use caution in awarding SIG funds to an

LEA that selects an entity that does not have a record of producing strong results.

Clarifying Renewal Criteria

Current Requirements: Under section II.C, an SEA must renew an LEA's grant if the LEA demonstrates that its schools are meeting student achievement goals in reading/language arts and mathematics and may renew an LEA's grant if the SEA determines that the LEA's schools are making progress toward those goals.

Proposed Requirements: Section II.C.2 of the proposed requirements sets forth the following two additional factors an SEA may consider when making grant renewal decisions for an LEA with SIG-funded schools that have not met student achievement goals or for which the SEA does not have sufficient data to determine whether student achievement goals have been met: (1) Whether the LEA's schools are making progress on the leading indicators in section III and (2) whether the LEA is implementing interventions in its schools with fidelity to applicable requirements and to its application. Section II.C.6 of the proposed requirements also clarifies that nothing in the requirements would diminish an SEA's authority to take appropriate enforcement action with respect to an LEA that is not complying with the terms of its grant.

Reasons: Many SEAs do not have sufficient data to determine whether an LEA's schools have met their student achievement goals at the time of grant renewal decisions. To address this issue, the Department has proposed additional factors relevant to an LEA's performance that the SEA may consider. These additional criteria would help an SEA determine whether a school without achievement data is likely to be successful in improving student achievement by the end of its grant period.

To eliminate any misconception that the requirements that pertain to grant renewal might preclude the SEA from taking appropriate enforcement actions, the Department has also included language to clarify that an SEA would retain its enforcement authority, up to and including terminating an LEA's subgrant.

Defining "Greatest Need" To Include Priority and Focus Schools for SEAs With Approved ESEA Flexibility Requests

Current Requirements: Under section I.A, an SEA may award SIG funds to LEAs with the greatest need for such funds, defined as LEAs that have Tier I, Tier II, or Tier III schools, as defined in

⁹ Woodworth, J. and Raymond, M. (2013). *Charter School Growth and Replication: Volume II*. Stanford, CA: Center for Research on Education Outcomes, Stanford University.

¹⁰ See the notice of final priorities, requirements, definitions, and selection criteria for this program, published in the **Federal Register** on July 12, 2011 (76 FR 40898).

the current requirements. The current requirements do not address schools identified through an SEA's approved ESEA flexibility request as priority or focus schools.

Proposed Requirements: Section I.A.1 of the proposed requirements revises the existing definition of "greatest need" to include, for an SEA with an approved ESEA flexibility request, priority schools and focus schools identified pursuant to the SEA's approved ESEA flexibility request and consistent with the definitions of those schools under ESEA flexibility.¹¹

The proposed requirements include conforming references to priority and focus schools throughout to clarify that the relevant requirements that pertain to Tier I and Tier II schools apply to both priority and focus schools, with the following exceptions: (1) Proposed section II.A.4(a) requires an LEA to serve each priority school unless the LEA demonstrates it lacks sufficient

capacity to do so; (2) proposed section II.A.7 precludes an LEA with one or more priority schools from applying to serve one or more focus schools if it has not applied to serve all of its priority schools; and (3) proposed section II.B.7 requires an SEA to give priority to LEAs that apply to serve priority schools, if the SEA does not have sufficient SIG funds to make at least three-year awards to each LEA that submits an approvable application.

Reasons: Through waivers granted as part of ESEA flexibility and through the State SIG application process, most SEAs with approved ESEA flexibility requests have replaced their lists of Tier I, Tier II, and Tier III schools with lists of priority schools that were identified in accordance with their approved ESEA flexibility requests. These waivers are necessary because, under ESEA flexibility, most SEAs no longer make AYP determinations or identify title I schools in improvement, corrective action, or restructuring. Therefore, these SEAs are unable to identify a sufficient number of schools that meet the definitions of Tier I, Tier II, and Tier III schools. The proposed requirements would require SEAs with approved ESEA flexibility requests to award SIG funds to LEAs with priority and focus schools instead of Tier I, Tier II, or Tier III schools and would eliminate the need for an SEA to seek a waiver from the Department to serve those schools.

The proposed requirements treat both priority and focus schools like Tier I and Tier II schools except that, under the proposed requirements, an LEA must apply to serve all of its priority schools before it may apply to serve its focus schools and an SEA must award funds to serve each priority school its LEAs commit to serve before awarding funds to LEAs to serve focus schools. (Under the current requirements, an SEA must award funds to serve each Tier I and Tier II school its LEAs commit to serve before awarding funds to LEAs to serve Tier III schools.) Priority schools identified in accordance with ESEA flexibility are the lowest-performing schools in the State. Although focus schools identified under ESEA flexibility are schools contributing to the achievement gap in their State, the Department believes that SIG funds must first be used to implement intervention models in the schools that are the lowest-performing overall.

Clarifying Flexibility for Previously Implemented Interventions (In Whole or In Part)

Current Requirements: Under section I.B.1, an SEA may award SIG funds to

an LEA that has previously implemented, in whole or in part, an intervention that meets the requirements for the turnaround model, restart model, or transformation model within the last two years.

Proposed Requirements: The proposed requirements revise section I.B.1 of the current requirements to make clear that an SEA may fund an LEA that implemented an intervention, in whole or in part, during the school year in which the LEA applies for SIG funds or during the two school years prior to the school year in which the LEA applies for SIG funds.

The proposed requirements also clarify that the flexibility in section I.B.1 of the current requirements applies to the three new intervention models discussed in this document—the evidence-based, whole-school reform strategy, the early learning model, and the approved State-determined model.

Reasons: The reference in the current requirements to interventions implemented within "the last two years" has created confusion among States. The Department has provided guidance to States on how to determine if an intervention that was previously implemented falls within section I.B.1 of the current requirements.¹² The proposed requirements are consistent with that guidance. Consistent with the purpose of the Consolidated Appropriations Act, 2014, the proposed requirements would also expand this flexibility regarding previously implemented interventions to apply to the three newly eligible interventions.

Revising Reporting Requirements

Current Requirements: Under section III, "Reporting and Evaluation," an SEA is required to report certain data with respect to schools served by the SIG program, including truancy data. For each metric, the current requirements identify the authority under which the Department collects the data. Some of the data is collected through *EDFacts*. However, the current requirements identify the State Fiscal Stabilization Fund (SFSF) as the authority for collecting data for two of the metrics—college-enrollment rates and distribution of teachers by performance level on an LEA's teacher evaluation system.

Proposed Requirements: Section III.A of the proposed requirements would

¹¹ Under ESEA flexibility, "priority school" is defined as a school that, based on the most recent data available, has been identified as among the lowest-performing schools in the State. The total number of priority schools in a State must be at least five percent of the title I schools in the State. A priority school is—

A school among the lowest five percent of title I schools in the State based on the achievement of the "all students" group in terms of proficiency on the statewide assessments that are part of the SEA's differentiated recognition, accountability, and support system, combined, and has demonstrated a lack of progress on those assessments over a number of years in the "all students" group;

A title I-participating or title I-eligible high school with a graduation rate less than 60 percent over a number of years; or

A Tier I or Tier II school under the SIG program that is using SIG funds to implement a school intervention model.

Under ESEA flexibility, "focus school" is defined as a title I school in the State that, based on the most recent data available, is contributing to the achievement gap in the State. The total number of focus schools in a State must equal at least 10 percent of the title I schools in the State. A focus school is—

A school that has the largest within-school gaps between the highest-achieving subgroup or subgroups and the lowest-achieving subgroup or subgroups or, at the high school level, has the largest within-school gaps in graduation rates; or

A school that has a subgroup or subgroups with low achievement or, at the high school level, low graduation rates.

An SEA must also identify as a focus school a title I high school with a graduation rate less than 60 percent over a number of years that is not identified as a priority school.

These determinations must be based on the achievement and lack of progress over a number of years of one or more subgroups of students identified under ESEA section 1111(b)(2)(C)(v)(III) in terms of proficiency on the statewide assessments that are part of the SEA's differentiated recognition, accountability, and support system, combined, or, at the high school level, graduation rates for one or more subgroups. See the document ESEA Flexibility, updated June 7, 2012, available at <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>.

¹² See Frequently Asked Question G—1a in "Guidance on Fiscal Year 2010 School Improvement Grants Under Section 1003(g) of the Elementary and Secondary Education Act of 1965," dated March 1, 2012, available at <http://www2.ed.gov/programs/sif/legislation.html>.

make three changes and a number of clarifications to the reporting requirements. First, we would remove from the chart under section III.A.3 of the proposed requirements the metric for “Truants” and replace it with “Chronic absenteeism rates.” Second, we would remove from the chart under proposed section III.A the references to SFSF data as a source for collecting data. Lastly, we would clarify in the chart under proposed section III.A.3 the correct source for each of the required metrics.

Reasons: Truancy is defined at the State level. As a result, the data the Department has collected on truancy are not comparable across States and are of limited utility. For this reason, the Department proposes replacing the truancy data reporting requirement with a requirement to report data on “chronic absenteeism,” defined in the Department’s Civil Rights Data Collection as the unduplicated number of students absent 15 or more school days during the school year. See <http://www.regulations.gov/contentStreamer?objectId=0900006481337396&disposition=attachment&content Type=pdf> and <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2013-14-p1-p4.doc>. This definition of “chronic absenteeism” applies across all LEAs and would ensure that the data are consistent among all States. We believe this approach would more effectively assist the Department, States, and the public in determining the impact that SIG funds have on a key attendance metric across States. Finally, we would remove the reference to SFSF as a source for some of the data because it is no longer an active program.

Clarifying SEA Requirements for Posting LEA SIG Applications

Current Requirements: Under section II.B.3, an SEA must post on its Web site all final LEA applications and specific information pertaining to the grants.

Proposed Requirements: Section II.B.6 of the proposed requirements clarifies that an SEA must post all LEA applications, including applications to serve Tier III schools. Additionally, if an LEA amends an application, the SEA would be required to post the amended application.

Reasons: Although the current requirements state that an SEA must post “all final LEA applications,” the Department has found that many SEAs do not post LEA applications to serve Tier III schools or amended applications. The proposed requirements are intended to eliminate any confusion and to ensure that SEAs are providing the public with complete

information on LEA applications for SIG funds.

Removing References to Fiscal Year 2009 and Fiscal Year 2010 Funds

Current Requirements: Section II.B contains multiple requirements pertaining to the disbursement of fiscal years 2009 and 2010 funds. Section II.E allows SEAs to reserve no more than five percent of their fiscal year 2009 SIG allocation if the total allocation exceeded the total allowable amount for awards to LEAs.

Proposed Requirements: Section II.B of the proposed requirements would remove references to fiscal years 2009 and 2010 funds. The proposed requirements would remove section II.E.

Reasons: The current requirements for the SIG program were published to incorporate authority in the Consolidated Appropriations Act, 2010, which was applicable to funds appropriated under the American Recovery and Reinvestment Act of 2009 (ARRA) and fiscal year 2010 funds. The SIG funds allocated under ARRA were significantly greater than the fiscal year 2010 allocation and each subsequent allocation. For that reason, the Department included specific SEA requirements to direct the disbursement of the ARRA funds and the fiscal year 2010 funds, including the current requirement in section II.E that allowed SEAs to reserve no more than five percent of their fiscal year 2009 SIG allocation if the total allocation exceeded the total allowable amount for awards to LEAs. The period of availability of the ARRA funds and the fiscal year 2010 funds has expired and, therefore, references to the fiscal year 2009 and 2010 funds in the current requirements are no longer necessary.

Removing Reference to Differentiated Accountability Pilot

Current Requirements: Section II.B.11 sets forth requirements for SEAs participating in the “differentiated accountability pilot.”

Proposed Requirements: The proposed requirements would remove the current requirement pertaining to the differentiated accountability pilot in section II.B.11.

Reasons: The “differentiated accountability pilot” no longer operates. Accordingly, any reference to it is obsolete and should be removed.

Technical Edits

The Department has made a number of technical edits to clarify current requirements where appropriate. We have also renumbered the provisions in

the requirements for internal consistency.

Proposed Requirements

The Secretary proposes the following requirements, which amend the SIG final requirements, published in the **Federal Register** on October 28, 2010 (75 FR 66363), and incorporate the proposed changes described above:

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 select those LEAs with the greatest need for such funds, in accordance with the requirements in paragraph I.A.1. From among the LEAs in greatest need, the SEA must select, in accordance with paragraph I.A.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 improve academic achievement. Key terms are defined as follows:

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 categories described in section I.A.1(a)–(c), except that an LEA with the greatest need for a School Improvement Grant in a State with an approved ESEA flexibility request must have one or more schools in at least one of the categories described in section I.A.1(d)–(e):

(a) Tier I schools:

(1) 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.”

(2) At its option, an SEA may also identify as a Tier I school an elementary school that is eligible for title I, Part A funds that—

(A)(i) Has not made adequate yearly progress for at least two consecutive years; or

(ii) Is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/ language arts and mathematics combined; and

(B) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(1)(A) of the definition of “persistently lowest-achieving schools.”

(b) Tier II schools:

(1) 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.”

(2) At its option, an SEA may also identify as a Tier II school a secondary school that is eligible for title I, Part A funds that—

(A)(i) Has not made adequate yearly progress for at least two consecutive years; or

(ii) Is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/ language arts and mathematics combined; and

(B)(i) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(2)(A) of the definition of “persistently lowest-achieving schools”; 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.

(c) *Tier III schools:*

(1) A Tier III school is a title I school in improvement, corrective action, or restructuring that is not a Tier I or a Tier II school.

(2) At its option, an SEA may also identify as a Tier III school a school that is eligible for title I, Part A funds that—

(A)(i) Has not made adequate yearly progress for at least two years; or

(ii) Is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/ language arts and mathematics combined; and

(B) Does not meet the requirements to be a Tier I or Tier II school.

(3) An SEA may establish additional criteria to use in setting priorities among LEA applications for funding and to encourage LEAs to differentiate among Tier III schools in their use of School Improvement Grants funds.

(d) *Priority schools:* A priority school is a school identified as a priority school pursuant to an SEA’s approved ESEA flexibility request and consistent with the ESEA flexibility definition of priority school.¹³

¹³ A “priority school” is defined as a school that, based on the most recent data available, has been identified as among the lowest-performing schools in the State. The total number of priority schools in a State must be at least five percent of the title I schools in the State. A priority school is—

A school among the lowest five percent of title I schools in the State based on the achievement of the “all students” group in terms of proficiency on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, and has demonstrated a lack of progress on those assessments over a number of years in the “all students” group;

A title I-participating or title I-eligible high school with a graduation rate less than 60 percent over a number of years; or

(e) *Focus schools:* A focus school is a school identified as a focus school pursuant to an SEA’s approved ESEA flexibility request and consistent with the ESEA flexibility definition of focus school.¹⁴

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 or, for an SEA with an approved ESEA flexibility request, each priority and focus school, that the LEA commits to serve:

(a) *Turnaround model:*

(1) A turnaround model is one in which an LEA must implement each of the following elements:

(A) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully each element of the turnaround model.

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

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

(ii) Select new staff.

(C) 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.

(D) Provide staff ongoing, high-quality, job-embedded professional

A Tier I or Tier II school under the SIG program that is using SIG funds to implement a school intervention model.

¹⁴ A “focus school” is defined as a title I school in the State that, based on the most recent data available, is contributing to the achievement gap in the State. The total number of focus schools in a State must equal at least 10 percent of the title I schools in the State. A focus school is—

A school that has the largest within-school gaps between the highest-achieving subgroup or subgroups and the lowest-achieving subgroup or subgroups or, at the high school level, has the largest within-school gaps in graduation rates; or

A school that has a subgroup or subgroups with low achievement or, at the high school level, low graduation rates.

An SEA must also identify as a focus school a title I high school with a graduation rate less than 60 percent over a number of years that is not identified as a priority school.

These determinations must be based on the achievement and lack of progress over a number of years of one or more subgroups of students identified under ESEA section 1111(b)(2)(C)(v)(II) in terms of proficiency on the statewide assessments that are part of the SEA’s differentiated recognition, accountability, and support system, combined, or, at the high school level, graduation rates for one or more subgroups.

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.

(E) 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.

(F) 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.

(G) 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.

(H) Establish schedules and implement strategies that provide increased learning time (as defined in these requirements).

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

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

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

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

(b) *Restart model:*

(1) 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.) The rigorous review process must include a determination by the LEA that the selected charter school operator, CMO, or EMO is likely to produce strong results for the school. In making this determination, the LEA must consider the extent to which the schools currently operated or managed by the selected charter school operator, CMO, or EMO, if any, have produced strong results over the past three years (or over

the life of the school, if the school has been open for fewer than three years), including—

(A) Significant improvement in academic achievement for all of the groups of students described in section 1111(b)(2)(C)(v) of the ESEA;

(B) Success in closing achievement gaps, either within schools or relative to all public elementary school and secondary school students statewide, for all of the groups of students described in section 1111(b)(2)(C)(v)(II) of the ESEA;

(C) High school graduation rates, where applicable, that are above the average rates in the State for the groups of students described in section 1111(b)(2)(C)(v) of the ESEA; and

(D) No significant compliance issues, including in the areas of civil rights, financial management, and student safety;

(2) 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 elements:

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

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

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

(ii) Implement rigorous, transparent, and equitable evaluation and support systems for teachers and principals, designed and developed with teacher and principal involvement, that—

(1) Will be used for continual improvement of instruction;

(2) Meaningfully differentiate performance using at least three performance levels;

(3) Use multiple valid measures in determining performance levels, including as a significant factor data on student growth (as defined in these requirements) for all students (including English learners and students with disabilities), and other measures of professional practice (which may be gathered through multiple formats and sources), such as observations based on rigorous teacher performance standards,

teacher portfolios, and student and parent surveys;

(4) Evaluate teachers and principals on a regular basis;

(5) Provide clear, timely, and useful feedback, including feedback that identifies needs and guides professional development; and

(6) Will be used to inform personnel decisions.

(iii) Use the teacher and principal evaluation and support system described in section I.A.2(d)(1)(A)(ii) of these requirements to 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; and

(iv) 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 students in the school, taking into consideration the results from the teacher and principal evaluation and support system described in section I.A.2(d)(1)(A)(ii) of these requirements, if applicable.

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

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

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

(iii) 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*.

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

(i) 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;

(ii) 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; and

(iii) 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 implement successfully school reform strategies.

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

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

(ii) Implementing a schoolwide "response-to-intervention" model;

(iii) 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 English learners acquire language skills to master academic content;

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

(v) 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.*

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

(i) Establish schedules and strategies that provide increased learning time (as defined in these requirements); and

(ii) Provide ongoing mechanisms for family and community engagement.

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

(i) 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;

(ii) 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;

(iii) 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

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

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

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

(i) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully each element of the transformation model to substantially improve student achievement outcomes and increase high school graduation rates; and

(ii) 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).

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

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

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

(e) *Evidence-based, whole-school reform strategy:* An evidence-based, whole-school reform strategy is a strategy that—

(1) Is supported by evidence of effectiveness, which must include at least two studies of the strategy, each of which—

(A) Meets What Works Clearinghouse evidence standards with or without reservations;¹⁵ and

(B) Found a statistically significant favorable impact on a student academic achievement or attainment outcome, with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse;

(2) Is a whole-school reform strategy as defined in these requirements; and

(3) Is implemented by the LEA in partnership with a strategy developer as defined in these requirements.

(f) *Early learning model:* An LEA implementing the early learning model in an elementary school must—

(1) Implement each of the following early learning strategies—

(A) Offer full-day kindergarten;

(B) Establish or expand a high-quality preschool program (as defined in these requirements);

(C) Provide educators, including preschool teachers, with time for joint planning across grades to facilitate effective teaching and learning and positive teacher-student interactions.

(2) Replace the principal who led the school prior to commencement of the early learning model;

(3) Implement rigorous, transparent, and equitable evaluation and support systems for teachers and principals, designed and developed with teacher and principal involvement, that meet the requirements described in section I.A.2(d)(1)(A)(ii);

(4) Use the teacher and principal evaluation and support system described in section I.A.2(d)(1)(A)(ii) of these requirements to identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(5) 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 students

in the school, taking into consideration the results from the teacher and principal evaluation and support system described in section I.A.2(d)(1)(A)(ii) of these requirements, if applicable;

(6) Use data to identify and implement an instructional program that—

(A) Is research-based, developmentally appropriate, and vertically aligned from one grade to the next as well as aligned with State early learning and development standards and State academic standards and

(B) In the early grades, promotes the full range of academic content across domains of development, including math and science, language and literacy, socio-emotional skills, self-regulation, and executive functions;

(7) 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 educational and developmental needs of individual students; and

(8) Provide staff ongoing, high-quality, job-embedded professional development such as coaching and mentoring (*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 implement successfully school reform strategies.

(g) *Approved State-Determined Model:* An LEA may implement an intervention developed or adopted by its SEA that has been approved by the Secretary, consistent with section II.B.1(b).

3. *Definitions.*

High-quality preschool program means an early learning program that includes structural elements that are evidence-based and nationally recognized as important for ensuring program quality, including at a minimum—

(a) High staff qualifications, including a teacher with a bachelor's degree in early childhood education or a bachelor's degree in any field with a State-approved alternate pathway, which may include coursework, clinical practice, and evidence of knowledge of content and pedagogy relating to early childhood, and teaching assistants with appropriate credentials;

(b) High-quality professional development for all staff;

(c) A child-to-instructional staff ratio of no more than 10 to 1;

¹⁵ What Works Clearinghouse Procedures and Standards Handbook (Version 3.0), which can currently be found at the following link: http://ies.ed.gov/ncee/wwc/pdf/reference_resources/wwc-procedures_v3_0_standards_handbook.pdf.

(d) A class size of no more than 20 with, at a minimum, one teacher with high staff qualifications as outlined in paragraph (a) of this definition;

(e) A full-day program;

(f) Inclusion of children with disabilities to ensure access to and full participation in all opportunities;

(g) Developmentally appropriate, culturally and linguistically responsive instruction and evidence-based curricula, and learning environments that are aligned with the State early learning and development standards, for at least the year prior to kindergarten entry;

(h) Individualized accommodations and supports so that all children can access and participate fully in learning activities;

(i) Instructional staff salaries that are comparable to the salaries of local K–12 instructional staff;

(j) Program evaluation to ensure continuous improvement;

(k) On-site or accessible comprehensive services for children and community partnerships that promote families' access to services that support their children's learning and development; and

(l) Evidence-based health and safety standards.

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 one or more 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.¹⁶

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

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

(A) 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

(B) 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—

(A) 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

(B) 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—

(1) 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

(2) The school's lack of progress on those assessments over a number of years for the “all students” group.

Strategy developer means an entity or individual that—

(a) Maintains proprietary rights for the strategy; or

(b) If no entity or individual maintains proprietary rights for the strategy—

(1) Has a demonstrated record of success in implementing the strategy in one or more low-achieving schools; or

(2) Together with the LEA with which the entity or individual has partnered, has a high-quality plan for implementing the strategy in the school.

Student growth means the change in student achievement for an individual student between two or more points in time. For the purpose of this definition, *student achievement* means—

(a) For grades and subjects in which assessments are required under section 1111(b)(3) of the ESEA, a student's score on such assessments and may include other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools within an LEA.

(b) For grades and subjects in which assessments are not required under section 1111(b)(3) of the ESEA, alternative measures of student learning

and performance, such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.

Whole-school reform strategy means a strategy that is designed to—

(a) Improve student academic achievement or attainment;

(b) Be implemented for all students in a school; and

(c) Address, at a minimum and in a comprehensive and coordinated manner, each of the following:

(1) School leadership.

(2) Teaching and learning in at least one full academic content area (including professional learning for educators).

(3) Student non-academic support.

(4) Family and community engagement.

4. *Evidence of strongest commitment.*

(a) In determining the strength of an LEA's commitment to ensuring that School Improvement Grants funds are used to provide adequate resources to enable Tier I, Tier II, priority, and focus 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—

(1) In selecting the intervention for each eligible school—

(A) Ensure that the selected intervention is designed to meet the specific needs of the school, based on a needs analysis that, among other things, analyzes the needs identified by families and the community; and

(B) Take into consideration family and community input.

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

(3) Use the School Improvement Grants funds to provide adequate resources and related support to each school it commits to serve in order to implement fully and effectively the selected intervention on the first day of the first school year of full implementation;

(4) Recruit, screen, and select external providers, if applicable, to ensure their quality, and regularly review and hold accountable such providers for their performance;

(5) Align other resources with the selected intervention;

(6) Modify its practices or policies, if necessary, to enable it to implement the selected intervention fully and effectively;

¹⁶ Evidence from the field shows that increasing learning time in a strategic, high-quality manner is often a key element of successful school turnaround. See “The Case for Improving and Expanding Time in School: A Review of Key Research and Practice, available at www.timeandlearning.org/files/CaseforMoreTime_1.pdf.” National Center on Time and Learning, April 2012.

(7) Provide effective oversight and support for implementation of the selected intervention for each school it proposes to serve, such as by creating an LEA turnaround office;

(8) Meaningfully engage families and the community in the implementation of the selected intervention on an ongoing basis;

(9) For an LEA eligible for services under subpart 1 or 2 of part B of title VI of the ESEA that chooses to modify one element of the turnaround or transformation model under section I.B.6 of these requirements, meet the intent and purpose of that element;

(10) For an LEA that applies to implement an evidence-based, whole-school reform strategy in one or more eligible schools—

(A) Implement a strategy with evidence of effectiveness that includes a sample population or setting similar to the population or setting of the school to be served; and

(B) Partner with a strategy developer, as defined in these requirements;

(11) For an LEA that applies to implement the restart model in one or more eligible schools, conduct a rigorous review process, as described in section I.A.2(b), of the charter school operator, CMO, or EMO that it has selected to operate or manage the school or schools; and

(12) 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, Tier II, priority, and focus 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 Grants funds to an LEA for a Tier I, Tier II, priority, or focus school that has implemented, in whole or in part, an intervention that meets the requirements under section I.A.2(a), 2(b), 2(d), 2(e), 2(f), or 2(g) of these requirements during the school year in which the LEA applies for School Improvement Grants funds or during the two school years prior to the school year in which the LEA applies for School Improvement Grants funds, 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 or Tier II title I participating 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 Grants funds.

3. An SEA may seek a waiver from the Secretary to enable a Tier I or Tier II title I participating 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 the requirements under section I.A.2(a), 2(b), 2(d), 2(e), 2(f), or 2(g) of these requirements.

4. An SEA may seek a waiver from the Secretary to extend the period of availability of School Improvement Grants funds so as to make those funds available to the SEA and its LEAs for up to five years.

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

6. An LEA eligible for services under subpart 1 or 2 of part B of title VI of the ESEA may modify one element of the turnaround or transformation model so long as the modification meets the intent and purpose of the original element, in accordance with section I.A.4(a)(9) of these requirements.

II. Awarding School Improvement Grants to LEAs

A. LEA requirements.

1. An LEA may apply for a School Improvement Grant if it receives title I, Part A funds and has one or more schools that qualify under the State's definition of a Tier I, Tier II, Tier III, priority, or focus school.

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

(a) Identify the schools it commits to serve;

(b) Identify the intervention it will implement in each Tier I, Tier II, priority, and focus school it commits to serve;

(c) Provide evidence of its strong commitment to use School Improvement Grants funds to implement the selected intervention by addressing the factors in section I.A.4(a) of these requirements;

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

(e) Include a budget indicating how it will allocate School Improvement Grants funds among the schools it commits to serve that is of sufficient size and scope and that:

(1) For each Tier I, Tier II, priority, and focus school the LEA commits to serve, ensures that the LEA can implement one of the interventions identified in sections I.A.2(a)-(b) or sections I.A.2(d)-(g) of these requirements for a minimum of three years and no more than five years; and

(2) For each Tier III school the LEA commits to serve, includes the services it will provide the school, particularly if the school meets additional criteria established by the SEA, for a minimum of three years and no more than five years.

3. An LEA that intends to use the first year of its School Improvement Grants award for planning and other pre-implementation activities for an eligible school must include in its application to the SEA a description of the activities, the timeline for implementing those activities, and a description of how those activities will lead to successful implementation of the selected intervention.

4. The LEA must serve:

(a) In an SEA with an approved ESEA flexibility request, each priority school unless the LEA demonstrates that it lacks sufficient capacity to undertake one of the interventions described in section I.A.2 of these requirements in each priority school, in which case the LEA must indicate the priority schools that it can effectively serve. An LEA may not serve with School Improvement Grants funds awarded under section 1003(g) of the ESEA a priority or focus school in which it does not implement one of the interventions identified in section I.A.2 of these requirements.

(b) In all other SEAs, each Tier I school unless the LEA demonstrates that it lacks sufficient capacity (which may be due, in part, to serving Tier II schools) to undertake one of the interventions described in section I.A.2 of these requirements 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 Grants funds awarded under section 1003(g) of the ESEA a Tier I or Tier II school in which it does not implement one of the interventions identified in section I.A.2 of these requirements.

5. An LEA that commits to serve schools that do not receive title I, Part A funds must ensure that each such school it serves receives all of the State and local funds it would have received in the absence of the School Improvement Grants funds.

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. An LEA in which one or more priority schools are located and that does not apply to serve all of these schools may not apply for a grant to serve one or more focus schools.

8. (a) To monitor each Tier I, Tier II, priority, and focus school that receives School Improvement Grants funds, an LEA must—

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

(2) 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, if applicable.

9. An LEA must hold the charter school operator, CMO, EMO, or other external provider accountable for meeting these requirements, if applicable.

B. SEA requirements.

1. (a) 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.

(b) In its application to the Department, each SEA may submit one State-determined intervention model for the Secretary's review and approval. To be approved, a State-determined intervention model must:

(1) Ensure strong leadership by:

(A) Requiring a review of the performance of the current principal;

(B) Requiring replacement of the principal, if such a change is necessary to ensure strong and effective leadership, or requiring the LEA to demonstrate to the SEA that the current principal has a track record in improving achievement and has the ability to lead the turnaround effort; and

(C) Requiring the LEA to provide the principal with operational flexibility in the areas of scheduling, staff, curriculum, and budget;

(2) Ensure that teachers are effective and able to improve instruction by:

(A) Requiring a review of all staff and retaining only those who are determined to be effective and to have the ability to be successful in supporting the turnaround effort;

(B) Preventing ineffective teachers from transferring to a school implementing an intervention under section I.A.2; and

(C) Providing job-embedded, ongoing professional development informed by the teacher evaluation and support

systems and tied to teacher and student needs;

(3) Establish schedules and implement strategies that provide increased learning time (as defined in these requirements);

(4) Strengthen the school's instructional program by ensuring that it—

(A) Is research-based, rigorous, and aligned with State academic content standards; and

(B) Meets student needs;

(5) Use data to inform instruction and for continuous improvement, including by providing time for collaboration on the use of data;

(6) Establish a school environment that improves school safety and discipline and addresses other non-academic factors that impact student achievement, such as students' social, emotional, and health needs; and

(7) Provide ongoing mechanisms for family and community engagement.

Note: An intervention that the Secretary approved as part of an SEA's ESEA flexibility request that also includes increased learning time, as defined in these requirements, will be considered to have met the criteria in II.B.1(b).

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—

(1) Whether the LEA has agreed to implement one of the interventions identified in section I.A.2 of these requirements in each Tier I and Tier II school or, for an SEA with an approved ESEA flexibility request, each priority and focus school included in its application;

(2) The extent to which the LEA's application demonstrates the LEA's strong commitment to use School Improvement Grants funds to implement the selected intervention by addressing the factors in section I.A.4 of these requirements;

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

(4) Whether the LEA has submitted a budget that includes sufficient funds to implement the selected intervention fully and effectively in each school it identifies in its application.

3. An SEA may, consistent with State law, take over an LEA or specific Tier I, Tier II, priority, or focus schools in

order to implement the interventions in these requirements.

4. An SEA may not require an LEA to implement a particular intervention in one or more schools unless the SEA has taken over the LEA or school.

5. To the extent that a 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 these requirements.

6. An SEA must post on its Web site, within 30 days of awarding School Improvement Grants to LEAs and within 30 days of approving any amendments to LEA applications, all approved LEA applications (including applications to serve Tier I, Tier II, Tier III, priority, and focus schools and approved amendments) 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, Tier II, priority, and focus school.

7. If an SEA does not have sufficient School Improvement Grants funds to award, for at least three years, a grant to each LEA that submits an approvable application, the SEA must give priority to LEAs to serve Tier I or Tier II schools or, for an SEA with an approved ESEA flexibility request, the SEA must give priority to LEAs to serve priority schools.

8. 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 for each school it commits to serve and, for each school in which the LEA commits to fully implement an intervention that meets the requirements under section I.A.2(a), 2(b), 2(d), 2(e), 2(f), or 2(g) of these requirements, may be up to \$2,000,000 per year.

9. If an SEA does not have sufficient School Improvement Grants funds to allocate to each LEA with a Tier I or Tier II school or, in an SEA with an approved ESEA flexibility request, to each LEA with a priority or focus 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, Tier II, priority, and focus schools among such LEAs in the State to ensure that Tier I and Tier II schools or, in an SEA with an approved ESEA flexibility request, priority and focus schools throughout the State can be served.

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

11. 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.

1. An SEA must renew the School Improvement Grant for each affected LEA for additional one-year periods, subject to sections II.C.4–C.6 of these requirements, if the LEA demonstrates that its Tier I, Tier II, priority, and focus schools are meeting the annual goals for student achievement established by the LEA consistent with section II.A.8 of these requirements, and that its Tier III schools are meeting the goals established by the LEA and approved by the SEA.

2. An SEA may renew an LEA's School Improvement Grant with respect to a particular school, subject to the

requirements in sections II.C.4–C.6, if the SEA determines that, with respect to that school—

(a) The school is making progress toward meeting the annual goals for student achievement established by the LEA consistent with section II.A.8 of these requirements;

(b) The school is making progress on the leading indicators in section III of these requirements;

(c) The LEA is implementing interventions in the school with fidelity to applicable requirements and to the LEA's application; or

(d) The LEA's Tier III school is making progress toward the goals established by the LEA.

3. If an SEA does not renew an LEA's School Improvement Grant with respect to a particular school, the SEA may reallocate those funds to other eligible LEAs, consistent with these requirements.

4. An SEA, prior to renewing the School Improvement Grant of an LEA that received funds for a full year of planning and other pre-implementation activities for a particular school, must review the performance of the LEA in that school during the planning year against the LEA's approved application and determine that the LEA will be able to fully implement its chosen intervention for the school on the first day of the following school year.

5. An SEA may renew an LEA's School Improvement Grant for a particular school, after three years of continuous intervention implementation in that school, after the SEA has determined that such renewal is appropriate pursuant to the criteria in sections II.C.1–C.2 of these requirements, for up to an additional two years for continued full implementation of the intervention or for activities related to sustaining reforms in the school. An SEA may not

renew an LEA's School Improvement Grant if doing so would result in more than five years of continuous School Improvement Grants funding with respect to a particular school.

6. Nothing in these requirements diminishes an SEA's authority to take appropriate enforcement action with respect to an LEA that is not complying with the terms of its grant.

D. State reservation for administration, evaluation, and technical assistance.

An SEA may reserve from the School Improvement Grants 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.

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. Accordingly, an SEA must report only the following new data with respect to School Improvement Grants:

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, Tier II, priority, or focus school, school-level data on the metrics designated on the following chart as "SIG" (School Improvement Grants):

Metric	Source	Achievement indicators	Leading indicators
SCHOOL DATA			
Which intervention the school used (e.g., turnaround, restart, evidence-based, whole school reform strategy).	SIG .....	.....	.....
Number of schools in rural LEAs implementing an intervention model with a modified element pursuant to section I.B.6 of these requirements.	SIG .....	.....	.....
Which intervention the school in a rural LEA implementing an intervention model with a modified element pursuant to section I.B.6 of these requirements used.	SIG .....	.....	.....
AYP status	EDFacts .....	✓	.....
Which AYP targets the school met and missed	EDFacts .....	✓	.....
School improvement status	EDFacts .....	✓	.....
Number of minutes within the school year	SIG .....	.....	✓
STUDENT OUTCOME/ACADEMIC PROGRESS DATA			

Metric	Source	Achievement indicators	Leading indicators
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.	SIG .....	✓	.....
Percentage of limited English proficient students who attain English language proficiency.	SIG .....	✓	.....
Graduation rate	EDFacts .....	✓	.....
Dropout rate	EDFacts .....	.....	✓
Student attendance rate	SIG .....	.....	✓
Number and percentage of students completing advanced coursework (e.g., AP/IB), early-college high schools, or dual enrollment classes.	SIG HS only .....	.....	✓
College enrollment rates	EDFacts .....	✓	.....
STUDENT CONNECTION AND SCHOOL CLIMATE			
Discipline incidents	EDFacts .....	.....	✓
Chronic absenteeism rates	CRDC .....	.....	✓
TALENT			
Distribution of teachers by performance level on LEA’s teacher evaluation system	SIG .....	.....	✓
Teacher attendance rate	SIG .....	.....	✓

4. An SEA must report these metrics for the school year prior to implementing the intervention, if the data exist, to serve as a baseline, and for each year thereafter for which the SEA allocates School Improvement Grants 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.

Final Requirements

We will announce the final requirements in a document in the **Federal Register**. We will determine the final requirements after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional requirements subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, definitions, and selection criteria, we invite applications through a document in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

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 subject to review by the Office of Management and Budget (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 stated in the Executive order.

This proposed regulatory action would have an annual effect on the economy of more than \$100 million because fiscal year 2014 appropriations for the program, which the Department will award to SEAs in fiscal year 2015, are approximately \$506 million. Therefore, this proposed action is “economically significant” and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and

benefits, both quantitative and qualitative, of this proposed regulatory action and have determined that the benefits would justify the costs.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or

provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing these proposed requirements only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this proposed regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

In this regulatory impact analysis we discuss the potential costs and benefits and the regulatory alternatives we considered.

Discussion of Potential Costs and Benefits

The Department believes that the proposed requirements would not impose significant costs on SEAs and LEAs that receive SIG funds. State and local costs of implementing the proposed requirements (including State costs of applying for grants, distributing grant funds to LEAs, ensuring compliance with the proposed requirements, and reporting to the Department; and LEA costs of applying for subgrants and implementing interventions) will be financed through grant funds. We do not believe that the proposed requirements will impose burden that SEAs or LEAs will need to meet from other sources.

This regulatory action would continue to drive SIG funds to LEAs that have the lowest-achieving schools in amounts sufficient to turn those schools around

and significantly increase student achievement. It would also continue to require participating LEAs to adopt the most effective approaches to turning around low-achieving schools. In short, we believe that this action would ensure that limited SIG funds continue to be put to their optimum use—that is, that they are targeted to where they are most needed and used in the most effective manner possible. The benefits, then, would be more effective schools serving children from low-income families and a better education for those children.

Regulatory Alternatives Considered

As discussed elsewhere, the Department believes that the proposed requirements are needed to ensure that the SIG program is implemented in a manner that, among other things, is consistent with the programmatic changes made by Congress in the Consolidated Appropriations Act, 2014. One alternative to promulgation of the proposed requirements would be for the Department to allocate fiscal year 2014 SIG funds without establishing any new requirements governing their use. Under such an alternative, States and LEAs would need to implement the new provisions in the appropriations language without key regulatory support from the Department. For instance, each State would be responsible for ensuring, for its LEAs that seek to use SIG funds to implement an evidence-based, whole-school reform strategy in an eligible school, that the strategy selected by the LEA constitutes whole-school reform and is supported by at least moderate evidence of effectiveness. We do not believe that States generally possess the capacity or expertise needed to meet this responsibility with the amount of rigor expected by Congress.

Elsewhere in this section under Paperwork Reduction Act of 1995, we identify and explain burdens specifically associated with information collection requirements.

Accounting Statement

As required by OMB Circular A–4 (available at www.whitehouse.gov/sites/default/files/omb/assets/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 this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action. Expenditures are classified as transfers from the Federal Government to SEAs.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES [in millions]

Category	Transfers
Annualized Monetized Transfers. From Whom To Whom?	\$506 From the Federal Government to SEAs.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum “Plain Language in Government Writing” require each agency to write regulations that are easy to understand.

The Department invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed 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 school districts (LEAs) with a population of less than 50,000. Although the majority of LEAs that receive title I funds qualify as small entities under this definition, the requirements proposed in this document 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 and submitting applications would not be significantly higher than the costs that would be incurred in applying for program funds under the statutory requirements. Also, small LEAs may receive technical assistance and other support from their SEAs in developing applications for these funds.

The Department believes the benefits provided under this proposed regulatory action outweigh the burdens on these small LEAs of complying with the proposed requirements. In particular, the proposed requirements would make significant resources available to eligible small LEAs to make the fundamental changes needed to turn around their lowest-achieving schools, resources that otherwise may not be available to small and often geographically isolated LEAs.

The Secretary invites comments from small LEAs as to whether they believe the requirements proposed in this document would have a significant economic impact on them and, if so, requests evidence to support that belief.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other

provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the final requirements we will display the control number 1810-0682 assigned by OMB to any information collection requirements proposed in these proposed requirements and adopted in the final requirements. These requirements contain information collection activities covered under the PRA and currently approved by OMB. The activities that are currently approved by OMB consist of: (1) The SEAs' preparation of applications to submit to the Department to apply for SIG funds and the SEAs' posting of the LEAs' applications on the SEAs' Web sites; (2) the reporting of specific school-level data on the use of SIG funds and specific interventions implemented in LEAs receiving SIG funds that the Department currently collects through *EDFacts* (OMB Control 1875-0240); and (3) the application an LEA must submit to apply to its SEA for SIG funds. The following is a summary of how the proposed requirements would change these activities and the effect they would have on the total burden.

Changes to the SEA Applications

Under proposed requirement section II.B.1(b), each SEA may submit, as part of the required application it submits to the Department to receive SIG funds, one State-determined intervention model for review and approval by the Secretary. These proposed requirements would require an SEA to submit a proposed State-determined intervention model as part of its application, if a State chooses to implement this model.

Under the burden estimates currently approved by OMB, 52 SEAs will complete, review, and post SEA and LEA applications for a total of 46,800 annual burden hours at a cost of \$30 per hour, totaling an annual cost of \$1,404,000. These proposed requirements do not change the currently approved annual burden for SEAs.

Revising Reporting Requirements

The proposed requirements make a number of clarifications to the reporting requirements. First, proposed requirement section III.A.3 eliminates the metric for "Truants" and replaces it with "Chronic absenteeism rates." Second, proposed requirement III.A clarifies the correct source for each of the required metrics and removes references to the SFSF previously approved under OMB data collection 1810-0695. Finally, proposed requirements in section III.A.3 would require an SEA to report, with respect to schools receiving SIG awards, the number of schools implementing models with a modified element pursuant to proposed section I.B.6 and which models are being implemented in those schools.

Under the reporting burden estimates, 52 SEAs will report SEA and LEA requirements for a total of 3,640 annual burden hours at a cost of \$30 per hour totaling an annual cost of \$109,200. These proposed requirements add burden to the currently approved annual burden for SEAs.

Changes to the LEA Application

The proposed requirements also add to the existing requirements in section I.A.4(a) (Evidence of strongest commitment) information that, under proposed section II.A.2(c), the LEA must include in the LEA application related to an evidence-based, whole-school reform strategy (for those LEAs that propose to implement such a strategy); meaningful family and community engagement; LEA oversight and support of SIG implementation; review of, and accountability for, external provider performance; and the review process for selecting a charter school operator, CMO, or EMO.

Under the burden estimates that are currently approved by OMB, 3,050 LEAs will complete an application for a total of 183,000 annual burden hours at a cost of \$25 per hour totaling an annual cost of \$4,575,000. These proposed requirements do not change the approved annual burden for LEAs.

Collection of Information

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
Reporting	52	70	3,640	30	109,200
Total			50,440	30	1,513,200

LOCAL EDUCATIONAL AGENCY ESTIMATE

SIG Activity	Number of LEAs	Hours/activity	Hours	Cost/hour	Cost
Complete LEA application	3,050	60	183,000	\$25	\$4,575,000
Total			183,000	25	4,575,000

To comment on the information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of Education. Send these comments by email to OIRA_DOCKET@omb.eop.gov or by fax to (202) 395-6974. You may also send a copy of these comments to the Department via the Federal eRulemaking Portal listed in the **ADDRESSES** section.

We have prepared an Information Collection Request (ICR) for these collections. In preparing your comments you may want to comment on the ICR, which is available at www.reginfo.gov. Click on Information Collection Review. This ICR is identified as 1810-0682.

We consider your comments on this collection of information in—

- Deciding whether the collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes

exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

ADDRESSES: Comments submitted in response to this document should be submitted electronically through the Federal eRulemaking Portal at www.regulations.gov by selecting Docket ID ED-2014-OESE-0179 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., Mailstop L-OM-2-2E319LBJ, Room 2E115, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT: Electronically mail ICDocketMgr@ed.gov. Please do not send comments here.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large

print, audiotape, or compact disc) on request to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: 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 via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can 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). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Catalog of Federal Domestic Assistance Number 84.377A)

Dated: September 2, 2014.

Deborah Delisle,

Assistant Secretary for Elementary and Secondary Education.

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