DEPARTMENT OF EDUCATION

34 CFR Subtitle B, Chapter II

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RIN 1810–AB07

Race to the Top Fund

AGENCY: Department of Education.

ACTION: Final priorities, requirements, definitions, and selection criteria.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.395A.

SUMMARY: The Secretary of Education (Secretary) announces priorities, requirements, definitions, and selection criteria for the Race to the Top Fund. The Secretary may use these priorities, requirements, definitions, and selection criteria in any year in which this program is in effect.

DATES: *Effective Date:* These priorities, requirements, definitions, and selection criteria are effective January 19, 2010.

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SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Race to the Top Fund, a competitive grant program, is to encourage and reward States that are creating the conditions for education innovation and reform; achieving significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers; and implementing ambitious plans in four core education reform areas—

(a) Adopting internationally benchmarked standards and assessments that prepare students for success in college and the workplace;

(b) Building data systems that measure student success and inform teachers and principals about how they can improve their practices;

(c) Increasing teacher and principal effectiveness and achieving equity in their distribution; and

(d) Turning around our lowest-achieving schools. Additional information on the Race to the Top program can be found at: *http://www.ed.gov/programs/racetothetop*.

Program Authority: American Recovery and Reinvestment Act of 2009, Division A, Section 14006, Public Law 111–5.

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the **Federal Register** on July 29, 2009 (74 FR 37804). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

There are a number of differences between the NPP and this notice of final priorities, requirements, definitions, and selection criteria as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice.

Public Comment:

In response to our invitation in the NPP, 1,161 parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

Generally, we do not address technical and other minor changes, nor do we address suggested changes that the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the NPP.

Introduction

The Race to the Top program, a $4.35 billion fund created under the American Recovery and Reinvestment Act of 2009 (ARRA), is the largest competitive education grant program in U.S. history. The Race to the Top Fund (referred to in the ARRA as the State Incentive Grant Fund) is designed to provide incentives to States to implement large-scale, system-changing reforms that result in improved student achievement, narrowed achievement gaps, and increased graduation and college enrollment rates.

The ARRA specifies that applications for Race to the Top funds must address the four assurance areas referenced in section 14006(a)(2): Enhancing standards and assessments, improving the collection and use of data, increasing teacher effectiveness and achieving equity in teacher distribution, and turning around struggling schools. The Department published the NPP to solicit public comment on the priorities, requirements, and selection criteria that State applications will address in accordance with this statutory requirement.

The NPP prompted an outpouring of public comments. Some 1,161 commenters submitted thousands of unique comments, ranging from one paragraph to 67 pages. Parents submitted comments, as did professional associations. From the statehouse to the schoolhouse, scores of public officials and educators, governors, chief State school officers, teachers, and principals weighed in with suggestions and critiques. All told, individuals from all 50 States and the District of Columbia, including over 550 individuals and 200 organizations, commented on the NPP.

The extensive and thoughtful public commentary on the NPP has been invaluable in helping the Department revise, improve, and clarify the priorities, requirements, definitions, and selection criteria for the Race to the Top program. A discussion of the most significant changes follows.

Major Changes in the Selection Criteria, Priorities, Requirements, and Definitions

State Success Factors

Many of the commenters expressed concern that the NPP's encouragement of comprehensive and coherent statewide reform was undercut by the need for State applicants to organize their plans around each of the four reform assurances, one at a time. In response to this concern, the Department has reorganized a number of the criteria, moving key criteria from the Overall section to a new section at the beginning of the selection criteria called State Success Factors. This new section provides States with the opportunity to start their proposals with clear statements of their coherent, coordinated, statewide reform agendas.

As several commenters noted, States face at least three overarching issues critical to their success in implementing their Race to the Top plans—the need for a coherent reform agenda, the capacity to lead LEAs, and the ability to improve outcomes. In this notice, these three issues are reflected in the State Success Factors as follows: Criterion (A)(1) pertains to a State's ability to articulate a comprehensive and coherent education reform agenda, and to engage its local educational agencies (LEAs) in strongly committing to and participating in that agenda; criterion (A)(2) relates to a State's capacity to implement its proposed plans through strong leadership, successfully supporting its LEAs in improving student outcomes, administering a grant of this magnitude efficiently, and organizing its financial resources to optimize impact; and finally, criterion (A)(3) asks States to demonstrate their ability to significantly improve education outcomes for students across the State.

More specifically, criterion (A)(1)(i) is a new criterion that asks States to set forth a comprehensive and coherent reform agenda that clearly articulates their goals for implementing reform in

the four education areas described in the ARRA and improving student outcomes statewide, establishes a clear and credible path to achieving these goals, and is consistent with the specific reform plans that the State has proposed throughout its application.

Under criterion (A)(1)(ii) (proposed criterion (E)(3)(iv)), States will demonstrate the participation and commitment of their LEAs. First, as described in criterion (A)(1)(ii)(a), the strength of LEAs' commitments to their State's plans will be evaluated based on the terms and conditions in a State's binding agreements with its LEAs. (To support States' efforts, the Department has drafted a model Memorandum of Understanding (MOU) and included it in Appendix D of this notice.) Criterion (A)(1)(ii)(b) has been added to make it clear that the commitment of participating LEAs will also be judged, in part, based on LEAs' agreements to implement all or significant portions of the work outlined in the State's plan. Criterion (A)(1)(ii)(c) clarifies that the extent of an LEA's leadership support for participating in the State's Race to the Top plans will be assessed by how many signatures are on the binding agreement between the State and the LEA, from among (if applicable) the superintendent, the president of the local school board, and the local teachers' union leader, or their equivalents (provided that there is at least one authorized LEA signatory on the agreement). For all of these criteria, States will be asked to provide as evidence examples of their participating LEA agreements as well as tables that summarize which portions of the State plans LEAs are committing to implement and how extensive the LEAs' leadership support is.

Criterion (A)(1)(iii) (adapted from proposed criteria (E)(3)(iv) and (E)(4)) asks States to describe how the engagement of those LEAs that are participating in the State's Race to the Top plans will translate into broad statewide impact on student outcomes, including increasing achievement and decreasing achievement gaps for (at a minimum) reading/language arts and mathematics on the National Assessment of Educational Progress (NAEP) and on the assessments required under the Elementary and Secondary Education Act of 1965, as amended (ESEA); and increasing high school graduation rates, college enrollment rates, and college credit accumulation.

Criterion (A)(2) asks States to describe their capacity to implement, scale up, and sustain their proposed plans. Criterion (A)(2)(i) (adapted from proposed criterion (E)(5)) concerns States' capacity to implement their plans. Criterion (A)(2)(i)(a) asks States to demonstrate that they have strong leadership and dedicated teams to implement their statewide education reform plans; and criterion (A)(2)(i)(b) (proposed (E)(5)(ii)) encourages States to describe the activities they will undertake in supporting participating LEAs in successfully implementing their plans. Criterion (A)(2)(i)(c) (proposed criterion (E)(5)(i)) asks States about the effectiveness and efficiency of their operations and processes for implementing a Race to the Top grant. Criterion (A)(2)(i)(d) (proposed (E)(5)(v)) further clarifies that States will be evaluated based on how they plan to use the funds for this grant, as described in their budgets and accompanying budget narratives, to accomplish their plans and meet their performance targets. Proposed criterion (E)(5)(iv), regarding collaboration between States, is not included in this final notice.

In criterion (A)(2)(ii) (proposed (E)(3)(i) and (E)(3)(ii)), States demonstrate that they have a plan to use the support from a broad group of stakeholders to better implement their reform plans. Criterion (A)(2)(ii)(a) concerns enlisting the support of teachers and principals as key stakeholders. Criterion (A)(2)(ii)(b) asks States to describe the strength of statements and actions of support from other critical stakeholders, and examples of these are listed. Proposed criterion (E)(3)(iii), regarding the support of grant-making foundations and other funding sources, is not included in this final notice.

Criterion (A)(3) addresses the extent to which the State has demonstrated significant progress in raising achievement and closing gaps. Criterion (A)(3)(i) (proposed criteria (E)(1)(i) and (E)(1)(ii)) provides for the evaluation of States based on whether they have made progress in each of the four education reform areas over the past several years and used ARRA and other Federal and State funding to pursue such reforms.

Criterion (A)(3)(ii) (proposed criterion (E)(1)(iv)) addresses States' track records of increasing student achievement, decreasing achievement gaps, and increasing graduation rates. When evaluating these student academic outcomes, reviewers will examine student assessment results in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; progress will be considered for each subgroup as well as for the ''all students'' group.

Standards and Assessments

In response to comments indicating that some States would have difficulty meeting a June 2010 deadline for adopting a new set of common, kindergarten-to-grade-12 (K–12) standards, this notice extends the deadline for adopting standards as far as possible, while still allowing the Department to comply with the statutory requirement to obligate all Race to the Top funds by September 30, 2010. As set forth in criterion (B)(1)(ii), the new deadline for adopting a set of common K–12 standards is August 2, 2010. States that cannot adopt a common set of K–12 standards by this date will be evaluated based on the extent to which they demonstrate commitment and progress toward adoption of such standards by a later date in 2010 (*see* criterion (B)(1) and Appendix B). Evidence supporting the State's adoption claims will include a description of the legal process in the State for adopting standards, and the State's plan, current progress against that plan, and timeframe for adoption.

For criteria (B)(1) and (B)(2) (proposed criteria (A)(1) and (A)(2), respectively), regarding the development and adoption of common, high-quality standards and assessments, the term ''significant number of States'' has been further explained in the scoring rubric that will be used by reviewers to judge the Race to the Top applications (*see* Appendix B). The rubric clarifies that, on this aspect of the criterion, a State will earn ''high'' points if its consortium includes a majority of the States in the country; it will earn ''medium'' or ''low'' points if its consortium includes one-half or fewer of the States in the country.

Further, for criterion (B)(2), concerning the development and implementation of common, high-quality assessments, States will be asked to present, as evidence, copies of their Memoranda of Agreement showing that the State is part of a consortium that intends to develop high-quality assessments aligned with the consortium's common set of standards. This is similar to the evidence required for criterion (B)(1) concerning the development and adoption of common standards.

Finally, this notice clarifies the language in criterion (B)(3) (proposed criterion (A)(3)) regarding the transition to enhanced standards and high-quality assessments; the criterion now lists a number of activities in which States or LEAs might engage as they work to translate the standards and assessments into classroom practice.

Data Systems to Support Instruction

The data systems selection criteria in the Race to the Top competition involve two types of data systems—statewide longitudinal data systems and instructional improvement systems. While numerous comments addressed the Department's emphasis on statewide longitudinal data systems in the NPP, the Department intends to give equal priority in this program to using instructional data as a critical tool for teachers, principals, and administrators to identify student needs, fill curriculum gaps, and target professional development. The final selection criteria, therefore, place significant emphasis on using data to inform professional development and fostering a culture of continuous improvement in schools and LEAs.

More specifically, the final notice contains new language in criterion (C)(3)(i) (proposed (B)(3)(i)) that clarifies that this criterion concerns local instructional improvement systems, not statewide longitudinal data systems, and further clarifies the LEA's role in the acquisition, adoption, and use of local instructional improvement systems.

New criterion (C)(3)(ii) was added to encourage LEAs and States to provide effective professional development on using data from these systems to support continuous instructional improvement.

Great Teachers and Leaders

The teachers and leaders criteria are built on two core principles that remain consistent with the NPP—that teacher and principal quality matters, and that effective teachers and principals are those whose students grow academically. Thus, this notice continues to include criteria directed at improving teacher and principal effectiveness and at ensuring that highly effective teachers and principals are serving in the high-poverty, high-minority schools where their talents are needed the most. In addition, this notice continues to define effective teachers and principals as those whose students make significant academic growth. While the final notice reaffirms these core principles, it also includes a number of changes to the criteria and related definitions based on public input.

The Department received over 400 comments in this reform area, many of which provided helpful suggestions that informed our revisions. One commenter suggested that the greatest contribution that the Race to the Top program could make would be to encourage the development of outstanding models for teacher and principal evaluation systems, now widely described as flawed and superficial. Based on this and similar comments, the Department has revised criterion (D)(2), now titled Improving Teacher and Principal Effectiveness Based on Performance, to encourage the design of high-quality evaluation systems, and to promote their use for feedback, professional improvement, and decision-making.

The Department concurs with the many commenters who cautioned that teacher and principal ''effectiveness'' should not be based solely on student test scores. In this notice, ''effectiveness'' is defined as based on input from multiple measures, provided that student growth is a significant factor. In addition, this notice re-emphasizes that it is student growth—not raw student achievement data or proficiency levels—that is the ''significant factor'' to be considered in evaluating effectiveness.

Finally, this notice expands and improves the four selection criteria that deal with teacher and principal professional development (criteria (B)(3), (C)(3)(ii), (D)(2)(iv)(a), and (D)(5)). It clarifies that professional collaboration and planning time, individualized professional development plans, training and support in the analysis and use of data, classroom observations with immediate feedback, and other activities are critical to supporting the development of teachers and principals.

Specifically, criterion (D)(1) (proposed (C)(1)), concerning high-quality pathways for aspiring teachers and leaders, has been expanded. It now includes a new criterion (D)(1)(iii), under which States will be evaluated based on the extent to which they have in place a process for monitoring, evaluating, and identifying areas of teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.

Criterion (D)(2) (proposed (C)(2)) has been revised to focus on the design and use of rigorous, transparent, and fair evaluation systems that provide regular feedback on performance to teachers and principals. This criterion also has been changed to clarify that the LEAs, not the States, should implement the teacher and principal effectiveness reforms under this criterion, and that the role of the States is to support their participating LEAs in implementing these reforms.

Criterion (D)(2)(ii) (proposed (C)(2)(b)) now emphasizes that these evaluation systems should differentiate effectiveness using multiple rating categories, and should be designed and developed with teacher and principal involvement. Criterion (D)(2)(iii) (proposed criteria (C)(2)(c) and (C)(2)(d)(i)) encourages such evaluations to be conducted annually and to include timely and constructive feedback, while criterion (D)(2)(iv) (proposed criterion (C)(2)(d)) addresses uses of evaluations to inform decision-making.

Criteria (D)(2)(iv)(c) and (D)(2)(iv)(d) (proposed criterion (C)(2)(d)(iii)) separately address the use of these evaluation systems to inform decisions regarding whether to grant tenure and/or full certification to effective teachers and principals (in criterion (D)(2)(iv)(c)), and removing ineffective teachers and principals (in criterion (D)(2)(iv)(d)). In addition, the Department has clarified that these decisions should be made using rigorous standards and streamlined, transparent, and fair procedures.

Criterion (D)(3) (proposed (C)(3)) has been revised to clarify that the State's plan for the equitable distribution of effective teachers and principals should be informed by the State's prior actions and data, and should ensure that students in high-poverty as well as high-minority schools have equitable access to highly effective teachers and principals—and are not served by ineffective ones at higher rates than are other students. The performance measures for this criterion now include, for comparison purposes, data on the presence of highly effective and ineffective teachers and principals in low-poverty and low-minority schools.

Criterion (D)(4) concerns improving the effectiveness of teacher and principal preparation programs. Criterion (D)(4)(i) (proposed (C)(4)) was revised to specify that, when reporting the effectiveness of teacher and principal credentialing programs, States should report student growth as well as student achievement data; they should report the data for all in-State credentialing programs, regardless of the number of graduates; and they should publicly report data, not ''findings.''

Criterion (D)(4)(ii) has been added to encourage States to expand those preparation and credentialing options and programs that are successful at producing effective teachers and principals (both as defined in this notice).

Criterion (D)(5) (proposed criterion (C)(5)) focuses on providing effective support to teachers and principals. Here, the Department has inserted a new paragraph, (D)(5)(i), to provide additional guidance on, and examples of, effective support. The Department has also removed the reference to using

''rapid-time'' student data to inform and guide the supports provided to teachers and principals.

Turning Around the Lowest-Achieving Schools

The Department made three noteworthy changes to the selection criteria on turning around the persistently lowest-achieving schools. First, this notice removes the restriction, proposed in the NPP, that permitted the ''transformation'' model to be used solely as a last resort. Instead, we simply specify that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools.

Second, the Department has fully aligned the school intervention requirements and definitions across Race to the Top, the State Fiscal Stabilization Fund, and the forthcoming Title I School Improvement Grants final notice. The Department's intention, in so doing, is to make it easier for States to develop consistent and coherent plans across these three programs.

Third, the public comments suggested that there was confusion about the role of charter schools in the Department's reform agenda. Some commenters concluded that by placing the charter school criterion in the school turnaround section, the Department was advancing charter schools as the chief remedy for addressing the needs of the persistently lowest-achieving schools. While the Department believes that charter schools can be strong partners in school turnaround work, it does not believe that charter schools are the only or preferred solution to turning around struggling schools. In fact, it is the Department's belief that turning around the persistently lowest-achieving schools is a core competency that every district needs to develop, and that closing bad schools and opening good ones is the job of school district leaders. Notwithstanding research showing that charter schools on average perform similarly to traditional public schools, a growing body of evidence suggests that high-quality charter schools can be powerful forces for increasing student achievement, closing achievement gaps, and spurring educational innovation. As a consequence, the selection criterion pertaining to charter schools (criterion (F)(2), proposed (D)(2)) has been shifted from the Turning Around the Lowest-Achieving Schools section to the General section, where it more appropriately reflects charter schools' broader role as a tool for school innovation and reform.

Specifically, the following changes have been made to criterion (E)(2) (proposed criterion (D)(3)), regarding turning around the lowest-achieving schools. Criterion (E)(2)(i) (proposed (D)(3)(i)) has been changed to allow States, at their discretion, to use Race to the Top funds to turn around non-Title I eligible secondary schools that would be considered ''persistently lowest-achieving schools'' if they were eligible to receive Title I funds.

Criterion (E)(2)(ii) (proposed criterion (D)(3)(ii)) has been changed by removing the clause that restricted the use of the ''transformation'' model to situations where the other intervention models were not possible and by specifying that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools. In addition, the four intervention models LEAs may use under this criterion are now described in detail in Appendix C, and these models have been made identical across the Race to the Top, State Fiscal Stabilization Fund, and Title I School Improvement Grants notices.

Finally, the evidence collected for criterion (E)(2) will include the State's historic performance on school turnaround efforts, as evidenced by the total number of persistently lowest-achieving schools that States or LEAs attempted to turn around in the last five years, the approach used, and the results and lessons learned to date.

General

The General section includes a number of other key reform conditions or plans.

First, criterion (F)(1) concerns education funding across the State. Criterion (F)(1)(i) (proposed (E)(2)) addresses the State's efforts to maintain education funding between FY 2008 and FY 2009. New criterion (F)(1)(ii) has been added to reward States whose policies lead to equitable funding between high-need LEAs and other LEAs, and within LEAs, between high-poverty schools and other schools.

As noted above, criterion (F)(2) regarding charter schools has been moved to the General section from the Turning Around the Lowest-Achieving Schools section, where it was proposed criterion (D)(2). In this notice, the Department maintains its focus on high-quality charter schools as important tools for school reform.

As was the case with the NPP, the final charter school criteria presented under (F)(2) encourage both unrestrictive charter school growth laws and strong charter school accountability. In support of charter school growth, the criteria also provide for the evaluation of States based on the extent to which they provide equitable funding for charter schools and offer them access to facilities. Criterion (F)(2)(ii) has also been revised to urge authorizers to encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students.

In their comments, a number of States argued that they had laws—other than charter school laws—that spurred school innovation. In response to these comments, the Department has added a new criterion, (F)(2)(v), that invites States to describe the extent to which they enable LEAs to operate innovative, autonomous public schools other than charter schools.

It is the Department's hope that the Race to the Top competition gives States ample opportunity to explain and implement proven and promising ideas for bolstering student learning and educational attainment, and to do this in ways that work best in their local contexts. To ensure that the application reflects a broad range of effective State and local solutions, criterion (F)(3) (proposed criterion (E)(1)(iii)) asks States to describe laws, regulations, or policies (other than those asked about in other selection criteria) that have created conditions in the State that are conducive to education reform and improved student outcomes.

Priorities

Many commenters offered suggestions about the proposed priorities, in particular the invitational and competitive preference priorities. A number of commenters urged the Department to increase the importance of each invitational priority by making it a competitive or absolute priority, while others wanted to add new priorities. Because of the Department's desire to give States latitude and flexibility in developing focused plans to best meet their students' needs, we are not changing any of the priorities from invitational to competitive or absolute. We did, however, add a new invitational priority and make some changes to the proposed priorities.

Regarding the proposed absolute priority, which stated that States' applications must comprehensively and coherently address all of the four education reform areas specified in the ARRA, the Department has added the requirement that States must comprehensively and coherently address the new State Success Factors criteria as well.

The final notice adds a new invitational priority 3, Innovations for Improving Early Learning Outcomes, expressing the Secretary's interest in applications that will improve early learning outcomes for high-need students who are young children.

In invitational priority 4 (proposed priority 3), Expansion and Adaptation of Statewide Longitudinal Data Systems, programs such as at-risk and dropout prevention programs, school climate and culture programs, and early learning programs have been added to the list of programs that a State may choose to integrate with its statewide longitudinal data system.

In invitational priority 5 (proposed priority 4), P–20 Coordination, Vertical and Horizontal Alignment, horizontal coordination of services was added as a critical component for supporting high-need students.

In invitational priority 6 (proposed priority 5), School-level Conditions for Reform, Innovation, and Learning, new paragraph (vi) adds school climate and culture, and new paragraph (vii) adds family and community engagement to the list of school conditions conducive to reform and innovation.

Requirements

The first eligibility requirement, requirement (a), has been changed to provide that a State must have both phases of its State Fiscal Stabilization Fund application approved by the Department prior to being awarded a Race to the Top grant. In the NPP, we proposed that a State would have to receive approval of its Stabilization Fund applications prior to December 31, 2009 (for Race to the Top Phase 1 applicants) or prior to submitting a Race to the Top application (for Race to the Top Phase 2 applicants).

The second eligibility requirement, requirement (b), was revised to clarify that the State must not have any legal, statutory, or regulatory barriers at the State level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation.

In addition, several changes were made to the application requirements. The Department removed two proposed application requirements, application requirements (c) and (d), which would have required States to provide information about making education funding a priority and about stakeholder support. Note that the final notice retains the selection criteria that request this same information.

Application requirement (c)(2) provides additional clarity about how to calculate the relative shares of the Race to the Top grant that participating LEAs will be eligible to receive.

The Department has added a new application requirement, requirement (g), to clarify specific issues related to the term ''subgroup,'' to NAEP, and to the assessments required under the ESEA. In addition to requiring States to include, at a minimum, the listed student subgroups when reporting past outcomes and setting future targets, this application requirement includes statutory references. This addition eliminates the need for statutory references that define subgroups elsewhere in the notice, and they therefore have been removed.

The program requirements have also changed. First, the Department has indicated its final approach to evaluation. The Institute of Education Sciences will conduct a series of national evaluations of Race to the Top State grantees as part of its evaluation of programs funded under the ARRA. States that are awarded Race to the Top grants will be required to participate in these evaluations and are welcome, but not required, to conduct their own independent, statewide evaluations as well.

Finally, the program requirements have clarified that funds awarded under this competition may not be used to pay for costs related to statewide summative assessments.

Definitions

The Department has revised the definition of *alternative routes to certification* to require that in addition to the other program characteristics listed, the program must be selective in accepting candidates. The revised definition also clarifies that such programs should include standard features of high-quality preparation programs and award the same level of certification that is awarded by traditional preparation programs.

A new definition of *college enrollment* refers to the enrollment of students who graduate from high school consistent with 34 CFR 200.19(b)(1) and who enroll in an institution of higher education (as defined in section 101 of the Higher Education Act, Public Law 105–244, 20 U.S.C. 1001) within 16 months of graduation.

The final notice revises the definitions of *effective teacher, effective principal*, *highly effective teacher*, and *highly effective principal* to require that multiple measures be used to evaluate effectiveness, and provides several examples of appropriate measures.

The definition of *formative assessment* has been revised to clarify that formative assessments are assessment questions, tools and processes and to require that feedback from such assessments need only be timely rather than instant.

Under a new definition of *high-minority school*, States are to define high-minority schools in their applications in a manner consistent with their Teacher Equity Plans.

The definition of *high-need LEA* was changed to conform with the definition of this term used in section 14013 of the ARRA.

The final notice adds and defines *high-need students* to mean students at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English language learners.[1]

The final notice adds a definition of *high-performing charter school*. This definition refers to a charter school that has been in operation for at least three consecutive years and has demonstrated overall success, including substantial progress in improving student achievement and having the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

The definition of *high-quality assessment* has been revised to clarify that test design must, to the extent feasible, use universal design principles in development and administration, and incorporate technology where appropriate.

The final notice also adds a definition of *increased learning time*, which refers to 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

[1] The term English language learner, as used in this notice, is synonymous with the term limited English proficient, as defined in section 9101 of the ESEA.

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.

The final notice adds a definition of *innovative, autonomous public schools* to refer to open enrollment public schools that, in return for increased accountability for student achievement (as defined in this notice), have the flexibility and authority to define their instructional models and associated curriculum; select and replace staff; implement new structures and formats for the school day or year; and control their budgets.

In the definition of *instructional improvement systems*, the Department now provides examples of related types of data that could be integrated into these systems.

The final notice adds a definition of *involved LEAs*, which refers to LEAs that choose to work with the State to implement those specific portions of the State's plan that necessitate full or nearly full statewide implementation, such as transitioning to a common set of K–12 standards, (as defined in this notice). Involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA; however, States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application.

The final notice adds a definition of *low-minority school*, which is to be defined by the State in a manner consistent with the State's Teacher Equity Plan.

A new definition of *low-poverty school* refers, consistent with section 1111(h)(1)(C)(viii) of the ESEA, to a school in the lowest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

The final notice adds a definition of *participating LEAs,* which refers to LEAs that choose to work with the State to implement all or significant portions of the State's Race to the Top plan, as specified in each LEA's agreement with the State. Each participating LEA that receives funding under Title I, Part A will receive a share of the 50 percent of a State's grant award that the State must subgrant to LEAs, based on the LEA's relative share of Title I, Part A allocations in the most recent year (that is, 2009), in accordance with section 14006(c) of the ARRA. Any participating LEA that does not receive funding under Title I, Part A (as well as one that does) may receive funding from the State's other 50 percent of the grant award, in accordance with the State's plan.

The term *persistently lowest-performing schools* has been changed to *persistently lowest-achieving schools.* The definition has been revised to include the lowest-achieving five percent criterion originally included in proposed criterion (D)(3) and to add high schools with graduation rates below 60 percent. The definition also provides that, in determining the lowest-achieving schools, a State must consider the academic achievement of the ''all students'' group for each school in terms of proficiency on the State's assessments required by the ESEA in reading/language arts and mathematics combined, and the lack of progress by that group on these assessments over a number of years.

The definition of *rapid-time,* in reference to reporting and availability of data, has been changed to remove the specification of a turnaround time of 72 hours and to clarify that it refers to locally collected school- and LEA-level data.

The definition of *student achievement* has been revised to include several examples of alternate measures of student learning and performance for non-tested grades and subjects. The final notice also clarifies that, for tested grades and subjects, student achievement can be measured using alternative measures of student learning and performance in addition to the State's assessments under the ESEA. Finally, the reference to Individualized Education Program (IEP) goals as a potential achievement measure has been removed.

The definition of *student growth* was clarified to mean the change in student achievement (as defined in this notice) for an individual student between two or more points in time, rather than just between two points in time, as the NPP had proposed, and that a State may also include other measures that are rigorous and comparable across classrooms.

In the following section, the Department has summarized and provided its responses to the comments received.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

General Comments on the Race to the Top Program

Reorganization of the Final Notice

Comment: None.

Discussion: The selection criteria in this notice are reordered. The most significant change is the addition of State Success Factors to the beginning of the selection criteria. State Success Factors criteria include some new criteria, as well as criteria that are adapted from proposed criteria from the overall selection criteria section proposed in the NPP. This reorganization will give States the opportunity to begin their proposals with clear statements of their coherent and coordinated statewide reform agendas. However, with this change, it was necessary to redesignate the remaining criteria. For example, in the NPP, the criteria related to standards and assessments were designated as ''A'' (*e.g.,* (A)(1), (A)(2), etc.), but in this final notice have been re-designated as ''B'' (*e.g.,* (B)(1), (B)(2), etc.). One way to indicate this change throughout the final notice is to include both references every time a criterion is used (*e.g.,* revised criterion (B)(1) (proposed criterion (A)(1)). Given the length of this notice and the extensive references to criteria, we have opted to refer only to the revised designation in the discussion of the comments. For example, we refer to a criterion for standards and assessments as ''criterion (B)(1),'' rather than as ''revised criterion (B)(1) (proposed criterion (A)(1)).'' In a few instances, we refer to ''proposed criterion'' or ''revised criterion'' for clarity but, generally, do not refer to each criterion with both its ''revised'' and ''proposed'' designation. We believe this format makes the document easier to read and understand. As a reminder to readers, we include both the final and proposed designations under the appropriate headings. Table 1 lists the final criteria and the corresponding proposed criteria. In Table 2, the columns are reversed to show the proposed criteria and the corresponding final criteria.

There is a similar re-designation of the priorities. Specifically, we added a new invitational priority on innovations for improving early learning outcomes and designated it as priority 3. Subsequent priorities were re-numbered, and thus, proposed priorities 3, 4, and 5 are now priorities 4, 5, and 6, respectively. As with the selection criteria, generally, we will refer only to the final designation for these priorities and will use headers, as appropriate, to remind the reader of the changes. Thus, for example, we will refer to the priority

on Expansion and Adaptation of Statewide Longitudinal Data Systems, which was proposed priority 3 in the NPP, as priority 4. Table 3 summarizes these changes.

Changes: We have re-designated the selection criteria and proposed priorities 3, 4, and 5. We will refer to the selection criteria and priorities with their final designations throughout this notice and, in a few instances, will refer to proposed designations for clarity. Three tables have been added to show how the final selection criteria and priorities relate to the proposed criteria and priorities.

TABLE 1—THE FINAL SELECTION CRITERIA COMPARED WITH THE PROPOSED SELECTION CRITERIA

Final notice	Proposed notice
A. State Success Factors	
A1. Articulating State's education reform agenda and LEAs' participation in it	(E)(1), (E)(3), (E)(4), (E)(5), and new
(A)(1)(i)	(E)(3)(iv), new
(A)(1)(ii)	New
(A)(1)(ii)(a)	(E)(3)(iv)
(A)(1)(ii)(b)	(E)(3)(iv)
(A)(1)(ii)(c)	(E)(3)(iv)
(A)(1)(iii)(a)	(E)(3)(iv)
(A)(1)(iii)(b)	(E)(3)(iv) and (E)(4)(i)
(A)(1)(iii)(c)	(E)(3)(iv) and (E)(4)(ii)
(A)(1)(iii)(d)	(E)(3)(iv) and (E)(4)(iii)
A2. Building strong statewide capacity to implement, scale up, and sustain proposed plans	(E)(3)(iv) and new
(A)(2)(i)(a)	(E)(3)(i–ii), (E)(5), and new
(A)(2)(i)(b)	New
(A)(2)(i)(c)	(E)(5)(ii)
(A)(2)(i)(d)	(E)(5)(i)
(A)(2)(i)(e)	(E)(5)(v)
(A)(2)(ii)(a)	(E)(5)(iii)
(A)(2)(ii)(b)	(E)(3)(i)
A3. Demonstrating significant progress in raising achievement and closing gaps	(E)(3)(i–ii)
(A)(3)(i)	(E)(1) and (E)(4)
(A)(3)(ii)(a)	(E)(1)(i–ii)
(A)(3)(ii)(b)	(E)(1)(iv)
(A)(3)(ii)(c)	(E)(1)(iv)
B. Standards and Assessments	(E)(1)(iv)
B1. Developing and adopting common standards	A. Standards and Assessments
(B)(1)(i)(a)	(A)(1)
(B)(1)(i)(b)	(A)(1)(i) and (A)(1)(ii)
(B)(1)(i)(c)	(A)(1)(i) and (A)(1)(ii)
(B)(1)(ii)(a)	(A)(1)(i) and (A)(1)(ii)
(B)(1)(ii)(b)	(A)(1)(i)
B2. Developing and implementing common, high-quality assessments	(A)(1)(ii)
(B)(2)(a)	(A)(2)
(B)(2)(a)	(A)(2)
B3. Supporting the transition to enhanced standards and high-quality assessments	(A)(2)
C. Data Systems to Support Instruction	(A)(3)
C1. Fully implementing a statewide longitudinal data system	B. Data Systems to Support Instruction
C2. Accessing and using State data	(B)(1)
C3. Using data to improve instruction	(B)(2)
(C)(3)(i)	(B)(3)
(C)(3)(ii)	(B)(3)(i)
(C)(3)(iii)	New
D. Great Teachers and Leaders	(B)(3)(ii)
D1. Providing high-quality pathways for aspiring teachers and principals	C. Great Teachers and Leaders
(D)(1)(i)	(C)(1)
(D)(1)(ii)	(C)(1)
(D)(1)(iii)	(C)(1)
D2. Improving teacher and principal effectiveness based on performance	New
(D)(2)(i)	(C)(2)
(D)(2)(ii)	(C)(2)(a)
(D)(2)(iii)	(C)(2)(b)
(D)(2)(iv)	(C)(2)(c) and (C)(2)(d)(i)
(D)(2)(iv)(a)	(C)(2)(d)
(D)(2)(iv)(b)	(C)(2)(d)(i)
(D)(2)(iv)(c)	(C)(2)(d)(ii)
(D)(2)(iv)(d)	(C)(2)(d)(iii)
D3. Ensuring equitable distribution of effective teachers and principals	(C)(2)(d)(iii)
	(C)(3)

TABLE 1—THE FINAL SELECTION CRITERIA COMPARED WITH THE PROPOSED SELECTION CRITERIA—Continued

Final notice	Proposed notice
(D)(3)(i)	(C)(3)
(D)(3)(ii)	(C)(3)
D4. Improving the effectiveness of teacher and principal preparation programs	(C)(4)
(D)(4)(i)	(C)(4)
(D)(4)(ii)	New
D5. Providing effective support to teachers and principals	(C)(5)
(D)(5)(i)	(C)(5)
(D)(5)(ii)	(C)(5)
E. Turning Around the Lowest-Achieving Schools	D. Turning Around Struggling Schools
E1. Intervening in the lowest-achieving schools and LEAs	(D)(1)
E2. Turning around the lowest-achieving schools	(D)(3)
(E)(2)(i)	(D)(3)(i)
(E)(2)(ii)	(D)(3)(ii)
F. General Selection Criteria	(D)(2), (E)(1), (E)(2), and new
F1. Making education funding a priority	(E)(2) and new
(F)(1)(i)	(E)(2)
(F)(1)(ii)	New
F2. Ensuring successful conditions for high-performing charter schools and other innovative schools	(D)(2)
(F)(2)(i)	(D)(2)(i)
(F)(2)(ii)	(D)(2)(ii)
(F)(2)(iii)	(D)(2)(iii)
(F)(2)(iv)	(D)(2)(iv)
(F)(2)(v)	New
F3. Demonstrating other significant reform conditions	(E)(1)(iii)
Removed	(E)(3)(iii)
Removed	(E)(5)(iv)

TABLE 2—THE PROPOSED SELECTION CRITERIA COMPARED WITH THE FINAL SELECTION CRITERIA

Proposed notice	Final notice
A. Standards and Assessments	B. Standards and Assessments
(A)(1). Developing and adopting common standards	(B)(1)
(A)(1)(i)	(B)(1)(i), (B)(1)(ii)(a)
(A)(1)(ii)	(B)(1)(i), (B)(1)(ii)(b)
(A)(2). Developing and implementing common, high-quality assessments	(B)(2)
(A)(3). Supporting the transition to enhanced standards and high-quality assessments	(B)(3)
B. Data Systems to Support Instruction	C. Data Systems to Support Instruction
(B)(1). Fully implementing a statewide longitudinal data system	(C)(1)
(B)(2). Accessing and using State data	(C)(2)
(B)(3). Using data to improve instruction	(C)(3)(i), (C)(3)(iii)
(B)(3)(i)	(C)(3)(i)
(B)(3)(ii)	(C)(3)(iii)
C. Great Teachers and Leaders	D. Great Teachers and Leaders
(C)(1). Providing high-quality pathways for aspiring teachers and principals	(D)(1)(i–ii)
(C)(2). Improving teacher and principal effectiveness based on performance	(D)(2)
(C)(2)(a)	(D)(2)(i)
(C)(2)(b)	(D)(2)(ii)
(C)(2)(c)	(D)(2)(iii)
(C)(2)(d)(i)	(D)(2)(iii), (D)(2)(iv)(a)
(C)(2)(d)(ii)	(D)(2)(iv)(b)
(C)(2)(d)(iii)	(D)(2)(iv)(c), (D)(2)(iv)(d)
(C)(3). Ensuring equitable distribution of effective teachers and principals	(D)(3)(i), (D)(3)(ii)
(C)(4). Reporting the effectiveness of teacher and principal preparation programs	(D)(4)(i)
(C)(5). Providing effective support to teachers and principals	(D)(5)(i), (D)(5)(ii)
D. Turning Around Struggling Schools	E. Turning Around the Lowest-Achieving Schools
(D)(1). Intervening in the lowest-achieving schools and LEAs	(E)(1)
(D)(2). Increasing the supply of high-quality charter schools	(F)(2)
(D)(2)(i)	(F)(2)(i)
(D)(2)(ii)	(F)(2)(ii)
(D)(2)(iii)	(F)(2)(iii)
(D)(2)(iv)	(F)(2)(iv)
(D)(3). Turning around the lowest-achieving schools	(E)(2)

TABLE 2—THE PROPOSED SELECTION CRITERIA COMPARED WITH THE FINAL SELECTION CRITERIA—Continued

Proposed notice	Final notice
(D)(3)(i)	(E)(2)(i)
(D)(3)(ii)	(E)(2)(ii)
E. Overall Selection Criteria	(A) State Success Factors and (F) General Selection Criteria
(E)(1). Demonstrating significant progress	(A)(3)(i), (A)(3)(ii), (F)(3)
(E)(1)(i)	(A)(3)(i)
(E)(1)(ii)	(A)(3)(i)
(E)(1)(iii)	(F)(3)
(E)(1)(iv)	(A)(3)(ii)
(E)(2). Making education funding a priority	(F)(1)(i)
(E)(3). Enlisting statewide support and commitment	(A)(1)(ii), (A)(1)(iii), (A)(2)(ii)
(E)(3)(i)	(A)(2)(ii)(a), (A)(2)(ii)(b)
(E)(3)(ii)	(A)(2)(ii)(b)
(E)(3)(iii)	Removed
(E)(3)(iv)	(A)(1)(ii), (A)(1)(iii)
(E)(4). Raising achievement and closing gaps	(A)(1)(iii)
(E)(4)(i)	(A)(1)(iii)(a)
(E)(4)(ii)	(A)(1)(iii)(b)
(E)(4)(iii)	(A)(1)(iii)(c)
(E)(5). Building strong statewide capacity to implement, scale up, and sustain proposed plans	(A)(2)(i)(b–e)
(E)(5)(i)	(A)(2)(i)(c)
(E)(5)(ii)	(A)(2)(i)(b)
(E)(5)(iii)	(A)(2)(i)(e)
(E)(5)(iv)	Removed
(E)(5)(v)	(A)(2)(i)(d)
New	(A)(1)(i)
New	(A)(1)(iii)(d)
New	(A)(2)(i)(a)
New	(C)(3)(ii)
New	(D)(1)(iii)
New	(D)(4)(ii)
New	(F)(1)(ii)
New	(F)(2)(v)

TABLE 3—THE FINAL PRIORITIES COMPARED WITH THE PROPOSED PRIORITIES

Final priorities	Proposed priorities
Priority 1: Absolute Priority—Comprehensive Approach to Education Reform.	Priority 1: Absolute Priority.
Priority 2: Competitive Preference Priority—Emphasis on Science, Technology, Engineering, and Mathematics (STEM).	Priority 2: Competitive Preference Priority.
Priority 3: Invitational Priority—Innovations for Improving Early Learning Outcomes.	New.
Priority 4: Invitational Priority—Expansion and Adaptation of Statewide Longitudinal Data Systems.	Priority 3.
Priority 5: Invitational Priority—P–20 Coordination, Vertical and Horizontal Alignment.	Priority 4.
Priority 6: Invitational Priority—School-Level Conditions for Reform, Innovation, and Learning.	Priority 5.
Priority 6, Paragraph vi.	New.
Priority 6, Paragraph vii.	New.

Overall Comments on the Race to the Top Program

Comment: We received a number of comments that addressed issues related to the Race to the Top program in general, as well as comments that focused on a number of priorities and selection criteria.

Discussion: We are addressing, in this section, general comments on the Race to the Top program, as well as comments that focused on multiple priorities and selection criteria. This allows us to group similar comments and be more responsive to the commenters.

Changes: None.

Comment: Many commenters supported our proposals in the NPP and our effort to leverage cutting-edge education reforms and innovation in a competitive Race to the Top program that will lay the foundation for significant improvement of America's education system. In particular, these commenters praised the Department's proposals for ''game-changing'' reforms in the areas of improving teacher and principal effectiveness and turning around our lowest-achieving schools.

Other commenters expressed their overall opposition to the Race to the Top program because of what they described as its ''one-size-fits-all'' approach to education reform involving ''a top-down, narrow definition of innovation that has little research to support it.'' Another commenter stated that the Department is prescribing a national formula for education reform, which threatens to undermine the program. In particular, several

commenters objected to the proposed use of test scores as an accurate measure of student achievement and what they claimed were ''unproven'' interventions such as charter schools and linking teacher compensation to student achievement data. Many commenters asserted that the proposed program design would interfere with State and local prerogatives and responsibilities for public education. Other commenters noted that some of the interventions proposed in Race to the Top, such as increasing the number of high-quality charter schools, are not consistent with existing State laws and might not work as well in rural areas as in urban environments. One commenter stated that the NPP ignored the existing ESEA school improvement process and ''would simply layer another top-down accountability process on top of the current faulty one.'' Some of these commenters urged that the final notice instead encourage States to propose multiple innovative, research-based reform strategies and models tailored to their own unique local needs.

Discussion: The Department appreciates the expressions of support for its Race to the Top proposal as well as commenters' constructive suggestions. The Race to the Top program provides a flexible framework for comprehensive State and local innovation in the key reform areas identified in the ARRA. In fact, one of the key purposes of this program is to ask States for their best ideas about how to address the levers of change—the four assurances in the ARRA—to significantly improve student outcomes and advance the field of education reform.

To create ''room'' for States to meet this goal, this final notice, consistent with the NPP, includes only one absolute priority and two eligibility requirements—none of which interferes with a State's flexibility to put forward its best ideas and practices for reform. The absolute priority focuses on comprehensiveness and coherence across the reform areas, and the eligibility requirements include (1) approved applications for funding under Phase 1 and Phase 2 of the Stabilization program, and (2) no legal, statutory, or regulatory barriers at the State level to linking data on student achievement or student growth to teachers and principals for the purpose of teacher and principal evaluation. As we noted in the NPP, section 14005(d) of the ARRA requires a State that receives funds under the Stabilization program to provide assurances in the same four education reform areas that are advanced by the Race to the Top program. We, therefore, believe it would be inconsistent to award a Race to the Top grant, which requires a determination that a State has made significant progress in the four education reform areas, to a State that has not met requirements for receiving funds under the Stabilization program. With regard to the second eligibility requirement, we believe that the capability to link student achievement to teachers and principals for the purposes of evaluation is fundamental to the Race to the Top reforms and to the requirement in section 14005(d)(2) of the ARRA that States take actions to improve teacher effectiveness. Furthermore, without the legal authority to use student achievement or student growth data for teacher and principal evaluations, States would not be able to execute reform plans related to several selection criteria in this notice.

In addition, the proposed selection criteria were not designated as eligibility requirements; instead, they were proposed as recommended elements of a comprehensive State plan that would provide an individual State with the flexibility to emphasize its own priorities and craft a winning application. This flexible approach has been retained in this final notice. For instance, States need not address every selection criterion, so long as they comprehensively and coherently address all of the four education reform areas as well as the State Success Factors Criteria.

Through this program, the Department will reward success in at least two ways: First, by giving States credit for having already put into place key conditions for reform, improving student achievement, and closing achievement gaps; and second, by encouraging States to build on their assets and successes. We believe that State plans that build on a foundation of successful existing practices will be more likely to succeed in improving student outcomes.

It is important to note that the Race to the Top program is a voluntary competitive grant program. Consistent with section 14006(b) of the ARRA, we may use ''such other criteria as the Secretary determines appropriate'' in making Race to the Top awards; our intention is not to fund every State but to identify and reward the subset of States that demonstrate the greatest promise of making meaningful gains in developing standards and assessments, using data to drive improved student outcomes, improving teacher and principal effectiveness and achieving equity in the distribution of effective teachers and principals, and turning around struggling schools. Moreover, because the effects of the Race to the Top program might not be captured by existing State accountability systems, such as those created under the ESEA, this final notice retains the separate performance measures included in the NPP.

In response to commenters' concerns pertaining to ''unproven'' interventions in the Race to the Top program, there is ample evidence, for example, that high-performing charter schools can significantly improve the achievement of high-need students. Likewise, the research supports that effective teachers and principals are essential to improving student achievement; accordingly, the Department believes that identifying, recruiting, developing, and retaining effective teachers and school leaders is critical to creating high-performing schools and a world-class education system. Finally, we are providing States with flexibility to incorporate these reforms into their plans through their own innovative and thoughtful approaches that are designed to address their specific needs. In addition, we are including in this final notice two additional criteria intended to make this flexibility for innovation more explicit.

Changes: We have added the following criteria: First, criterion (F)(2)(v) asks a State to demonstrate the extent to which it enables LEAs to operate innovative, autonomous public schools other than charter schools. Second, criterion (F)(3) (proposed criterion (E)(1)(iii)) encourages States to describe any other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

Transparency

Comment: Some commenters requested that the Department make all State applications and annual reports publicly available for review. Additional commenters requested that applications and all related materials be posted online prior to approval.

Discussion: To foster transparency and openness, the Department plans to post all State applications—for both successful and unsuccessful applications—on our Web site at the conclusion of each phase of the competition, together with the final scores each received. States may choose to make their applications publicly available at any time. We also anticipate making State annual reports publicly available.

Changes: None.

Allocation of Points

Comment: Several commenters requested clarification concerning the weighting of selection criteria. Two commenters specifically requested that the point scale or rubric be disclosed. Other commenters suggested that the point allocations be subject to public comment. One commenter suggested that Secretary Duncan make the final award selections.

Discussion: To ensure that the Race to the Top competition is as open and transparent as possible, the Department is publishing the reviewer scoring rubric in Appendix B of this notice. The rubric is designed to ensure consistency across reviewers and help applicants better understand the Department's priorities for this competition by clearly identifying the point allocations for each selection criterion and indicating how priorities will be judged. The Secretary will select the grantees after considering the rank order of applications, each applicant's status with respect to the Absolute Priority and eligibility requirement (a), and any other relevant information. Grant award decisions are made by the Secretary, pursuant to the Department's regulations. It is the Department's practice to first take public comment on proposed selection criteria before making final decisions on those criteria. This allows the Department to consider public comment on the proposed selection criteria before making final decisions on point allocations, which are then published in the application package and final notice inviting applications.

Changes: The scoring rubric for the criteria is included as Appendix B.

Comment: Many commenters recommended weighting State Reform Conditions Criteria more heavily than Reform Plan Criteria, arguing that States that have already enacted reform policies are more likely to accelerate student achievement. On the other hand, one commenter suggested that States be given extra credit for recently enacted regulatory or legislative reforms, particularly in Phase 2 of the Race to the Top competition. Several other commenters recommended that the Department ensure that no single criterion or assurance, by itself, operate to eliminate a State from the Race to the Top competition. One of these commenters argued that States need flexibility, while another commenter added that a State application that addresses some criteria in depth may be stronger than one that addresses all criteria but is ''shallow'' in its overall approach.

Discussion: The scoring rubric assigns more weight to accomplishments (*i.e.,* State Reform Conditions Criteria) than to plans (*i.e.,* Reform Plan Criteria). (*See* Appendix B). However, the Department will not give ''extra credit'' to States that have recently enacted laws or polices intended to support their Race to the Top applications, as that would penalize early reformers. Finally, as is made clear elsewhere in this notice, the selection criteria are not eligibility requirements; the failure to meet any single criterion, or even a number of criteria, will not preclude a State from receiving a Race to the Top award. Moreover, the large number of criteria for which a State may earn points means that an application that is exceptionally strong on a majority of, but not all, Race to the Top selection criteria may score higher than an application that earns only partial credit on every criterion. On the other hand, applicants should keep in mind the statutory emphasis on comprehensive reforms, as well as absolute priority 1, which requires an applicant to address comprehensively all four ARRA assurance areas as well as the State Success Factors (Section (A)) of the selection criteria.

Changes: None.

Comment: Many commenters recommended that the Department heavily weight the selection criteria for turning around struggling schools. Another commenter suggested a weighting system that rewards States for providing flexibility or autonomy to schools, whether charter or traditional. One commenter suggested awarding a significant portion of points for activities that support science, technology, engineering, and mathematics (STEM) initiatives; needy locations; turning around school climate; partnerships with community based organizations and volunteers; and family engagement.

Discussion: The Department believes that each of the four reform areas is critical and has assigned points accordingly. The Department, therefore, declines to heavily weight the selection criteria for turning around struggling schools or to provide extra points to States that provide flexibility and autonomy to its schools. We decline to award a significant portion of points for activities that support STEM initiatives, needy locations, school climate, partnerships with community based organizations and volunteers, and family engagement. We note that each of these areas already is addressed in this notice. For example, a State that includes STEM education in its comprehensive plan will be eligible to receive competitive preference points; States are required to give priority to high-need LEAs in their Race to the Top plans; and strategies to improve school climate, develop partnerships with CBOs, and improve family engagement are specifically encouraged in the school intervention models in Appendix C.

Changes: None.

Comment: One commenter suggested that the Department release guidance to help States determine whether they are likely to be successful in competing for Race to the Top funds as judged by their NAEP scores. The commenter suggested that States with low NAEP scores are unlikely to receive funds and would be wasting tremendous resources in completing a Race to the Top application.

Discussion: The Department has created a scoring rubric with the number of possible points for each selection criterion. The rubric will be used by reviewers to judge State applications for Race to the Top funds. The Department is including the rubric in Appendix B to ensure that the scoring of State applications is transparent and so that States are fully informed as they develop their applications. We note that the criterion referenced by the commenter (proposed criterion (E)(1)(iv), which has been revised and designated as criterion (A)(1)(iii)), focuses on improvements in achievement, and not simply whether a State has high or low scores, as reported by both the NAEP and the assessments required under the ESEA.

Changes: None.

Other Education Reform Strategies

Comment: Many commenters suggested that Race to the Top take into account existing State and local education reform strategies, particularly in high-need schools. Several commenters suggested that Race to the Top include reform initiatives specifically targeted to high schools, the learning needs of advanced students, or the attainment of ''21st Century Skills'' (described in the comments as skills pertaining to media, technology, and financial literacy and global awareness). One commenter urged a greater focus in Race to the Top on ''disruptive innovations'' such as online learning, while others championed specific subjects, such as music and the arts, as essential ways of engaging students in learning and keeping them in school. In addition, several commenters argued that the study of foreign languages is critical for our future competitiveness in the global economy and should be included as a priority in the Race to the Top program.

Discussion: The Department recognizes that numerous strategies, interventions, technologies, and subjects can make meaningful contributions to improving the quality of our education system, engaging students, and turning around the lowest-achieving schools. We also agree that it is important to give States credit for existing reforms that are achieving positive outcomes. This is one reason why we are clarifying and expanding criterion (F)(3) (proposed criterion (E)(1)(iii)) which, as mentioned earlier, asks States to demonstrate the extent to which they have created conditions favorable to education reform or innovation, in addition to the information provided under other State Reform Conditions Criteria. We also note that under the State Reform Conditions Criteria, States will be rewarded for having put into place key conditions for reform, while the State Reform Plan Criteria asks States to create plans that build on their successes.

Changes: Criterion (F)(3) (proposed criterion (E)(1)(iii)) has been clarified and expanded to focus on the extent to which a State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

Evidence-Based Practices in Race to the Top

Comment: Some commenters argued that the Race to the Top program, as outlined in the NPP, would not adequately support evidence-based practices. One of these commenters suggested including a minimum evidence threshold for each of the State Reform Plan Criteria.

Discussion: We believe that the use of evidence-based practices is critical to the success of the Race to the Top program. However, we acknowledge that the research evidence to support education practices, strategies, and programs may not reach the same threshold for each reform area. The four education reform areas in the ARRA are in large part focused on giving educators new data-based tools for developing and implementing their own best practices. Indeed, developing stronger standards and assessments, expanding the use of longitudinal data systems, improving teacher and principal effectiveness, and supporting struggling schools are all intended to create and support evidence-driven continuous instructional improvement based on what works in the classroom. One key purpose of Race to the Top is to empower cutting-edge States and LEAs to build on what works while also creating new, more effective models of educational reform and improvement that will significantly expand our collection of evidence-based practices. We believe that State flexibility is key in this effort.

Changes: None.

Support for Traditional Public Schools

Comment: One commenter claimed that the Race to the Top program, as outlined in the NPP, would result in little or no support for traditional public schools because it seemed primarily concerned with creating ''financial opportunities for educational entrepreneurs.''

Discussion: This commenter misconstrues Race to the Top, which is focused almost entirely on improving our traditional public schools. Furthermore, pursuant to section 14006(c) of the ARRA, at least 50 percent of Race to the Top funds must be allocated directly to LEAs according to their relative shares of funding under Title I, Part A of the ESEA; a majority of those LEAs are likely to serve exclusively traditional public schools. Further, each of the four assurances under the ARRA, which provide the overall framework for the Race to the Top program, is aimed at increasing the effectiveness of State and local support for traditional public schools.

Changes: None.

Eligibility of Other Entities

Comment: Several commenters suggested that entities other than States be made eligible to apply directly for Race to the Top funds. Specifically, commenters suggested that such organizations as charter schools, independent school districts, community colleges, historically black colleges and universities, LEAs, and not-for-profit organizations partnering with either LEAs or universities be able to apply for Race to the Top funds. Those commenters argued that preventing these entities from applying for the Race to the Top competition would limit the creation of innovative partnerships. Other commenters requested that private schools and non-profit organizations that partner with LEAs be eligible. Another commenter suggested that municipalities, in addition to LEAs, should be eligible to receive Race to the Top subgrants. One commenter was supportive of States applying directly for funds as opposed to LEAs.

Discussion: Section 14006(a)(2) of the ARRA specifically states that ''the Secretary shall make grants to States that have made significant progress'' in meeting the objectives of the four reform areas. As such, the Department does not have the authority to expand the statute's directive to extend eligibility to the other entities suggested by the commenters. The Department recognizes, however, that these entities and others within the State are essential to the success of Race to the Top grantees. For this reason, we are adding additional examples of stakeholders to State Success Factors Criterion (A)(2)(ii)(b) (proposed criteria (E)(3)(i) and (ii)), which specifically asks applicants to demonstrate the extent to which they have secured broad stakeholder support. In addition, participating LEAs may use their funds to serve non-Title I schools, if doing so aligns with the State's plan and the Department's general regulations on uses of funds. States also may, consistent with applicable procurement requirements, contract with organizations such as those mentioned by the commenters, using the State's share of Race to the Top funds.

Changes: Criterion (A)(2)(ii)(b) has been expanded to include additional examples of stakeholder support.

Comment: Some commenters suggested that private schools be eligible for Race to the Top funds. One commenter argued that services to students and teachers in private schools is permitted under the Stabilization Fund and, therefore, should be permitted under the Race to the Top program. The commenter stated that section 14006(b) of the ARRA leaves considerable discretion to the Secretary in awarding grants on the basis of State applications for the Stabilization Fund and argued that this latitude extends to Race to the Top funds. The commenter requested that the overall selection criteria be amended to include a criterion that focuses on applicants' compliance with statutory provisions related to the equitable participation of private school students and teachers in Federal education programs.

Other commenters recommended that the notice encourage States to include faith-based schools in their applications. These commenters pointed to positive effects on at-risk youth attributed to Catholic and other faith-based schools. A few commenters specifically requested that faith-based schools be eligible to apply for Race to the Top funds directly. One commenter noted that because private school students participate in Title I, Part A programs under the ESEA, they should be allowed

to participate in the Race to the Top activities approved in a State's plan. Other commenters requested that private schools that partner with LEAs be made eligible to receive Race to the Top funds. One commenter asserted that private schools should have the option to participate in all Federal programs without sacrificing control in such areas as curriculum, hiring, or teacher requirements.

Discussion: As described in the response to the previous set of comments related to eligibility, the statutory language of the ARRA specifically provides that States are the eligible applicants for Race to the Top funds, and that only LEAs are eligible to receive subgrants from the States. Race to the Top funds may not be provided to private schools through a grant or subgrant, and there is no requirement that private school students, teachers, or other educational personnel participate in Race to the Top on an equitable basis (as required in some programs in the ESEA). Furthermore, Race to the Top funds may not be used to provide financial assistance to students to attend private schools. However, States and LEAs have the flexibility to include private school students, teachers, and other educational personnel in activities that the States and LEAs deem appropriate, and may contract with private schools for appropriate secular activities, consistent with the State's plan.

Changes: None.

Authority for the NPP

Comment: Some commenters objected to the NPP, arguing that it proposed education policy outside of the legislative process. One commenter claimed that while the ARRA ''imposes only brief and general requirements'' governing the use of Race to the Top funds, the prescriptive proposals in the NPP ''amount to writing new laws.'' One commenter recommended that Congress hold hearings on the notice, claiming that there has been a lack of sufficient time to review the NPP.

Another commenter asserted that Congress should conduct a broad review of the NPP and of our determination that the NPP would ''not unduly interfere with State, local, and Tribal governments in the exercise of governmental functions.'' Two commenters also stated that it appeared that we were using Race to the Top, in the context of the fiscal emergency currently faced by many States, to impose education reform policies that would not otherwise be accepted by States and LEAs.

Discussion: The commenters are correct that the ARRA offers few specifics governing the Race to the Top program; however, the ARRA is very clear that (1) The program is expected to provide incentives for ''significant progress'' in the four assurance areas, and (2) the Secretary has authority to award Race to the Top funds using ''such criteria as the Secretary determines appropriate.'' Moreover, section 410 of the General Education Provisions Act (20 U.S.C. 1221e–3) gives the Secretary full authority to promulgate rules and regulations necessary for the effective administration of Federal education programs. This final notice, like the NPP, is consistent with these authorities.

Moreover, the ARRA specifically provides that Race to the Top funds must be awarded not later than September 30, 2010. In order to provide States the maximum amount of time possible to plan, organize, and draft their applications for the Phase 1 and Phase 2 competitions, while still allowing and responding fully to public comment, the Department sought comment on the NPP for a 30-day time period. Notably, section 437(d)(1) of the General Education Provisions Act, 20 U.S.C. 1232(d)(1), allows the Department to waive rulemaking for the first grant competition under a new or substantially revised program authority. The Race to the Top program is a new program, so the Department was not required to conduct notice-and-comment rulemaking. The Department, however, instead of taking advantage of that option, specifically sought public comment in order to inform the development of the program. Moreover, the comments received from over 1,100 commenters during the NPP's 30-day comment period suggest that this period of time was sufficient for broad public review and comment.

In response to claims that the Race to the Top requirements would interfere with State, local, or Tribal governments or impose policies on these governments, we note that the Race to the Top program is a voluntary competitive grant program that, like other such programs, includes requirements and criteria that must be met in order for States to participate and receive funding. States and LEAs that do not wish to comply with these conditions and criteria are not required to apply for a grant. While the fiscal crises currently faced by many States may encourage States to apply for Race to the Top funds, ameliorating State and local deficits is not the primary purpose of this program. Instead, the Race to the Top program, which will award only about 4 percent of all education funds provided by the ARRA, was specifically intended to encourage and reward those States that are making ''significant progress'' toward the four assurances. This final notice, like the NPP, represents our effort to establish reasonable and appropriate criteria for defining the ''significant progress'' as required by the statute.

Changes: None.

Promoting Successful Implementation

Comment: Several commenters raised questions concerning the implementation of Race to the Top. One commenter expressed concern that the proposed priorities pertained to State rather than LEA functions. The commenter noted that States do not achieve significant improvements in student outcomes; rather teachers working in LEAs with students, parents, school administrators, and other stakeholders make the difference.

Another commenter urged us to make Race to the Top awards as soon as possible, but not later than early 2010, so that States and school districts can begin implementing reforms in the 2010–2011 school year. Two commenters suggested that we will not be able to create the momentum to accomplish national education reform unless a sufficient number of States receive Race to the Top funds. One commenter suggested that the Race to the Top program would have a broader national impact if 26–30 States participated in the program, and recommended structuring the award phases so that the first round provides large ''lead'' grant awards followed by a second round of smaller ''but still substantial'' awards.

Discussion: The Department agrees that the success of a State's Race to the Top reform efforts will depend on its ability to articulate a comprehensive and coherent education reform agenda, secure the commitment of its LEAs to implement on its proposed plans, and provide leadership and support to its LEAs. We recognize that the most important reform efforts will take place in the classroom and that a critical part of a State's application will be the State's capacity to support its LEAs in successfully implementing its plans through such activities as identifying best practices, widely disseminating and replicating effective practices statewide, and holding LEAs accountable for progress and performance.

We are aware of the need for successful applicants to begin implementing their Race to the Top plans as soon as possible. Toward this

end, we expect to make Phase 1 Race to the Top awards in the first half of calendar year 2010. We do not agree that Race to the Top funds should be spread across an arbitrarily larger number of States. Instead, the size and number of Race to the Top awards in the two phases of funding will depend on the scope and quality of the applications that States submit to the Department.

Changes: None.

Comment: Several commenters requested clarification regarding how States should develop and use performance and data indicators. One commenter suggested requiring States to provide information on the extent to which LEAs in the State have made adequate yearly progress (AYP) as part of their annual reports. Other commenters called for the Department to peer-review annual State Race to the Top reports. Two commenters expressed concern that performance measures would vary from State to State, causing confusion in the field. Finally, one commenter recommended that the Department remove the phrase ''ambitious yet achievable'' because its meaning is unclear.

Discussion: In the NPP the Department proposed core performance measures for evaluating the performance of States receiving Race to the Top funds against both the four assurances and specific elements of State Race to the Top plans (see Appendix A). For the most part, we are retaining these measures, with some modifications, in this notice. The Department understands the concerns expressed by commenters about comparability of data across States receiving Race to the Top grants; this is one reason that this final notice retains the request for States to set student achievement and gap-closing goals based on NAEP data in revised criterion (A)(1)(iii) (proposed criterion (E)(4)). NAEP scores are comparable across States, thus eliminating concerns about the widely varying standards and assessments in use by States under ESEA accountability systems.

States already issue annual reports on AYP status for schools and LEAs, including proficiency rates for all schools; there is no need to duplicate this reporting by requiring its inclusion in a State's annual Race to the Top report. However, States that desire to include AYP data in their annual Race to the Top reports are free to do so. The Department declines to add a requirement for peer review of these annual reports.

Finally, we are retaining the ''ambitious yet achievable'' language throughout the Race to the Top State Reform Plan Criteria. As noted elsewhere in this notice, the Department believes that this language strikes the right balance between encouraging States to set a high bar for Race to the Top goals while recognizing that real change in education is difficult and takes time. The goal is to encourage realistic thinking and planning that connects specific activities to specific, achievable results, while acknowledging that improvements in the Nation's education system are urgently needed and the country's children cannot wait.

Changes: None.

Comment: One commenter expressed concern that too many of the measures proposed in the NPP reflect past performance and recommended a greater emphasis on future Race to the Top performance.

Discussion: The emphasis on past performance comes directly from the requirements in the ARRA, which requires States to have made significant progress in the four education reform areas in order to receive a grant. Once Race to the Top grants are awarded and winning States begin implementing their reform plans, the Department will become far more focused on how States perform under this program.

Changes: None.

Race to the Top Funding

Comment: Several commenters suggested that the Department provide more information on expected funding levels for States that receive Race to the Top funds, including the number and size of Race to the Top awards for both the Phase 1 and 2 competitions. Multiple commenters suggested that we provide funding for States to develop reform plans and applications. One commenter requested assurances that the level of funding to successful State applicants will be sufficient to carry out all activities in States' reform plans. Two commenters expressed concern that LEAs will have control of ARRA funds, outside of public accountability and without provisions for oversight, while another commenter requested information about the restrictions on the usage of Race to the Top funds, and an explanation of how States are expected to use them.

Discussion: We encourage States to develop budgets that match the needs they have outlined in their applications. To support States in planning their budgets, we have developed nonbinding budget guidance with ranges for each State; these are listed in the notice inviting applications, published elsewhere in this issue of the **Federal Register**. These ranges may be used to guide States as they draft their applications, but States may prepare budgets that are above or below the suggested ranges. The amount awarded in Phase 1 will depend on the quality of the applications that States submit to the Department, as well as the successful applicants' proposed budgets. It is our intention to have significant funds available for Phase 2 applicants and awards. The ARRA does not provide funding to help States prepare or design their Race to the Top applications.

Finally, the Department has taken extraordinary measures to ensure accountability in the use of all ARRA funds, including the Race to the Top fund, so that all dollars are used wisely and accounted for in a transparent manner. Indeed, as explained in the Reporting section of this final notice and in the notice inviting applications, successful applicants must comply with the ARRA annual reporting requirements in section 14008 of the ARRA and with quarterly reporting requirements in section 1512(c) of the ARRA, which are designed to ensure thorough and public oversight of the expenditure of ARRA funds. In addition, the Department has established a Recovery Act Web site and hotline for members of the public to report suspected misuse of funds.

Changes: None.

Comment: One commenter expressed concern about structuring the Race to the Top program as a competitive grant. The commenter noted that structuring the program this way will mean that not every State will win Race to the Top grant funds. Another commenter stated that by predetermining ''the conditions necessary for reform,'' the winners and losers have already been chosen.

Discussion: The Race to the Top program is intended to promote and reward States making the most progress in achieving the goals described in the ARRA and by the Secretary. As the Secretary and the President have said, Race to the Top is designed as a competitive, once-in-a-lifetime opportunity for the Federal Government to create incentives for far-reaching improvement in our Nation's schools. While other ARRA funds provide substantial increases in formula funds to States (*e.g.*, the Stabilization Fund, ESEA Title I, IDEA), we strongly believe that the competitive nature of the Race to the Top program will encourage statewide reform resulting in significant improvement in student outcomes. Finally, we note that contrary to the suggestion made by one commenter, the Department has not pre-selected the winners and losers for this competition. Applications will be judged based on the conditions States have put in place

by the time they apply, the strength of their plans, and how these come together as a coherent and cohesive strategy to improve student outcomes.

Changes: None.

Flexibility to Allocate Funds

Comment: Several commenters sought greater flexibility for States and LEAs to determine award levels. For example, a few commenters suggested that allocating 50 percent of Race to the Top funds by formula runs counter to the program's goals, and that States should be allowed to focus funding on LEAs with the greatest need for additional resources to address the educational needs of at-risk students such as English language learners, students with disabilities, and students from low-income families, or to give priority to one or more of the four assurances when funding LEAs. Other commenters sought clarification about State flexibility in using the 50 percent of funds that will not be distributed on the basis of the Title I formula. One commenter suggested that States might use their shares of Race to the Top awards to support high-need students in non-Title I schools, while another proposed allowing States to use these funds for State-level activities or to make their own formula or competitive subgrants. Another commenter asked whether LEAs can serve non-Title I schools in their districts with their 50 percent share, and whether use of these funds must also adhere to Title I regulations.

Discussion: Section 14006(c) of the ARRA requires at least 50 percent of Race to the Top funding to States to be sub-granted to participating LEAs according to their relative shares of funding under the ESEA Title I, Part A program for the most recent year. Neither the Department nor the States have discretion to deviate from this allocation requirement. LEAs that agree to work with the State to implement the State's Race to the Top plan may use these funds to serve non-Title I schools. Because these are not Title I program funds, LEAs are not required to adhere to Title I regulations regarding the usage of those funds. Fund uses, however, must be consistent with the State's plan and the Department's general regulations on uses of funds.

In addition, States have considerable flexibility in awarding or allocating the remaining 50 percent of their Race to the Top awards, which are available for State-level activities, disbursements to LEAs, and other purposes as the State may propose in its plan. Many of the activities recommended by commenters would be allowable uses of the State's share of Race to the Top funds, including: Serving high-need students in non-Title I schools, State-level activities in support of Race to the Top plans, competitive or formula-based subgrants to LEAs, contracts with non-profit organizations, or supporting the participation of private school students and teachers in Race to the Top.

Changes: None.

Comment: One commenter stated that a portion of the Race to the Top funds should be set aside for LEA–IHE consortia to develop training that would allow for the development and implementation of systemic P–20 collaboration, facilitate curricular alignment, and promote seamless transitions from high school to college.

Discussion: As noted in the previous comment, section 14006(c) of the ARRA requires a State that receives a Race to the Top grant to use at least 50 percent of the award to provide subgrants to LEAs, including public charter schools identified as LEAs under State law. The ARRA does not require or specify that funds should be set aside for any other specific purposes; therefore, we decline to require that a portion of the Race to the Top funds be set aside for LEA–IHE consortia as recommended by the commenter. However, States are welcome to include such expenditures in their proposals if they align with their plans. We also note that IHEs are critical partners in implementing significant reforms, particularly in ensuring that a State's longitudinal data system can provide data to assess the extent to which students are adequately prepared for success in post-secondary education. As noted elsewhere, we are adding language to criterion (B)(3) to acknowledge the role that IHEs may play in supporting the transition to enhanced standards and high-quality assessments. In addition, as noted elsewhere, we are adding ''institutions of higher education'' in criterion (A)(2)(ii)(b) as an example of a type of stakeholder from whom a State should enlist support and commitment to assist in the State's education reform efforts.

Changes: None.

Sustaining Race to the Top Reforms

Comment: One commenter expressed concern that the requirements and activities proposed in Race to the Top would not be fully paid for by Race to the Top awards, and that these activities would ''be difficult to sustain operationally and financially.'' This commenter recommended a sharper focus in the final notice on the requirements ''of greatest importance.'' In a related comment, one individual described Race to the Top as an ''underfunded mandate'' and argued that it would impose additional costs on State and local taxpayers.

Discussion: While the Race to the Top program is intended to support a comprehensive approach to developing and carrying out critical change and reform in the four assurance areas, States have flexibility to tailor their Race to the Top budgets and spending plans according to both the relative priority of plan activities and the availability of funding from other Federal, State, and local sources, consistent with criterion (A)(2)(i)(d) (proposed criterion (E)(5)(v)). For example, States may use their Title I School Improvement Grants to execute most of their plans under criterion (E)(2) (proposed criterion (D)(3)), thereby allowing themselves to dedicate a higher proportion of Race to the Top funds to activities in the other three assurance areas. Similarly, a State that receives a Statewide Longitudinal Data Systems grant might use these funds to enhance its data systems work and could, therefore, focus its Race to the Top funding on other assurance areas. Also, the selection criteria include elements intended to help ensure that funding issues do not derail Race to the Top plans. For example, under criterion (F)(1), States are asked to demonstrate the extent to which (i) the share of overall State revenues supporting education in FY 2009 was greater than or equal to the share provided for education in FY 2008; and (ii) the State's policies lead to equitable funding (a) between high-need LEAs and other LEAs, and (b) within LEAs, between high-poverty schools and other schools (new criterion). In addition, criterion (A)(2)(i)(e) (proposed criterion (E)(5)(iii)) addresses whether a State has explained in its application how it will use its fiscal, political, and human capital resources to continue Race to the Top reforms after the period of funding has ended. Finally, because the Race to the Top is a voluntary, competitive grant program, it does not impose costs on any State or local taxpayers, and thus does not meet any reasonable definition of an underfunded mandate.

Changes: Criteria related to budget planning and funding have been modified and rearranged in this final notice to promote the development and submission of more coherent Race to the Top plans. Criterion (A)(2)(i)(d) asks States to demonstrate through their budget narratives and accompanying budgets the extent to which they have high-quality plans to use Race to the Top funds to accomplish their plans and meet their targets, including, where feasible, coordinating, reallocating, or

repurposing education funds from other Federal, State, and local sources to align with their Race to the Top goals. Criterion (A)(2)(e) (proposed criterion (E)(5)(iii)) will help ensure that States have plans to continue support for Race to the Top reforms once Race to the Top funds have been spent.

Addressing Obstacles Created by Poverty

Comment: One commenter asserted that overcoming achievement gaps—a key goal of the Race to the Top program—would require addressing obstacles to high academic achievement created by the conditions of poverty. This commenter urged that Race to the Top be used to promote ''comprehensive educational opportunity'' for all students, but particularly for those from low-income families. Other commenters argued that Race to the Top plans should include efforts and incentives to ensure the adequacy and equity of State and local education funding, such as by rewarding States that have taken steps to allocate resources and inputs equitably.

Discussion: The Secretary believes that a high-quality education is the surest route out of poverty. However, while broader societal problems such as the lack of affordable housing or access to health care certainly make the jobs of schools serving disadvantaged students more challenging, they should not be used to excuse the lack of achievement in high-need schools. Race to the Top is structured to promote comprehensive educational reforms benefitting all students while targeting additional attention and resources towards high-need LEAs and toward the persistently lowest-achieving schools that typically enroll a disproportionate number of students from low-income families. For example, 50 percent of Race to the Top funding must be subgranted by States to LEAs on the basis of their relative shares of formula grant allocations under Title I, Part A of the ESEA, which are based largely on counts of children from low-income families residing in the communities served by those LEAs. Also, under criterion (E)(2) (proposed criterion (D)(3)), States will create comprehensive school intervention plans for the persistently lowest-achieving schools. Furthermore, under criterion (D)(3) (proposed criterion (C)(3)), States will be evaluated on their plans to ensure that students in high-poverty and/or high-minority schools have equitable access to highly effective teachers and principals and are not served by ineffective teachers and principals at higher rates than other students.

However, we agree that in this final notice, the Department should place greater emphasis on equitable funding of high-need LEAs and students. For this reason, we are adding criterion (F)(1)(ii), which examines the extent to which a State's policies lead to equitable funding (a) between high-need LEAs (as defined in this notice) and other LEAs, and (b) within LEAs, between high-poverty schools (as defined in this notice) and other schools.

Changes: The addition of criterion (F)(1)(ii) establishes a new State Reform Condition Criterion that will consider the extent to which a State's policies lead to equitable funding (a) between high-need LEAs and other LEAs, and (b) within LEAs, between high-poverty schools and other schools.

Civil Rights Enforcement

Comment: Several commenters raised concerns about the NPP as it relates to civil rights laws and discrimination based on race and sex in schools. One commenter recommended that the Department include language in the final notice reminding States of their obligations under anti-discrimination statutes, including Title IX of the Education Amendments Act of 1972.

Discussion: The Department believes in promoting educational excellence throughout the Nation through vigorous enforcement of civil rights laws. The Department's Office for Civil Rights is specifically tasked with enforcing several Federal civil rights laws that prohibit discrimination in programs or activities that receive Federal financial assistance from the Department, and issuing guidance to school districts on how to comply with those laws. Since SEAs and LEAs are ongoing recipients of Federal financial assistance, they are aware of these civil rights laws. We believe, therefore, that reiteration of State responsibilities under various civil rights laws in the final notice is unnecessary.

Changes: None.

Comment: One commenter suggested that the notice include language requiring States to support voluntary school integration efforts. Another commenter recommended adding an invitational priority for innovative approaches to voluntary school integration in order to encourage inter-district magnet schools and new charter schools that achieve racial and economic integration. The commenter also recommended adding an invitational priority to encourage the use of inter-district school transfers to promote integration. Another commenter recommended adding a criterion requiring a high-quality plan for a State to substantially reduce the isolation and segregation of low-income students, through intra- or inter-district collaboration, magnet schools, transfer programs, or school restructuring and consolidation. One commenter suggested adding requirements that State proposals reduce school-based poverty concentrations and racial isolation in schools. Another commenter wrote that the NPP overlooked ''the continuing importance of avoiding racial and economic segregation in public schools, and promoting voluntary integration'' and urged that the final notice promote these goals.

Discussion: Racial and economic diversity are laudable goals that the Department supports. The Race to the Top program encourages innovative solutions to important problems facing our Nation's schools, which could include appropriate approaches to further racially and economically diverse schools. However, we have not added this objective as an invitational priority in the Race to the Top program. We note that the Department has for many years administered the statutory Magnet Schools Assistance Program, 20 U.S.C. 7231. This program provides grants to LEAs to fund magnet schools that—in addition to strengthening students' academic knowledge and their attainment of tangible and marketable skills—will further the ''elimination, reduction or prevention of minority group isolation'' in elementary and secondary schools. 20 U.S.C. 7231(b).

Changes: None.

Family and Community Engagement

Comment: Many commenters stressed the importance of including parents, students, family, and community members ''as equal partners'' in developing States' Race to the Top plans. One commenter urged that the final notice require States and LEAs to document the involvement of parents in developing their Race to the Top plans, while another commenter recommended the inclusion of parent and student accountability measures in Race to the Top plans. One commenter urged that the Department and participating States keep parents informed of Race to the Top activities using materials written in ''easy-to-understand language'' and, where necessary, multiple languages. Several commenters stated that family engagement policies and practices that are culturally and linguistically appropriate are essential components of comprehensive services to high-need

students. A few commenters recommended that school personnel work with community partners to align school, family, and community assets and expertise in order to support student achievement (*e.g.*, centers of community, community schools, community learning centers, full service community schools). Many commenters stressed the importance of family and community involvement in local school turnaround strategies. Several commenters also noted that the terms ''family engagement'' and ''community engagement'' should be separated, arguing that these concepts involve different stakeholders and require different strategies.

Discussion: The Department agrees that States' Race to the Top plans would benefit from documented input and involvement by parents and organizations that represent parents, students, families, and community members. To encourage States to do so, we are adding, in criterion (A)(2)(ii)(b) (proposed criterion (E)(3)(ii)), Tribal schools; and parent, student, and community organizations among the stakeholders from which a State could obtain statements or actions of support to demonstrate statewide commitment to its Race to the Top plan. At the local level, criterion (E)(2) and Appendix C (proposed criterion (D)(3)) support greater parent involvement in individual school turnaround plans and the turnaround model and the transformation model in particular. The Department views such mechanisms not only as opportunities for parents to participate in turnaround planning but also for LEAs and schools to promote greater accountability for parents and students in areas such as school attendance, homework completion, and monitoring student achievement. In addition, the Department believes that any mechanism for family and community engagement naturally would require keeping parents informed of Race to the Top-related activities, including providing information in multiple formats and languages, where necessary. However, the final notice retains flexibility for LEAs to determine the nature of these mechanisms and does not specifically require plans to include separate parental involvement programs.

Changes: Criterion (A)(2)(ii)(b) adds ''Tribal schools; parent, student, and community organizations (*e.g.*, parent-teacher associations, nonprofit organizations, local education foundations, and community-based organizations)'' to the list of stakeholder groups from which a State can obtain statements or actions of support in order to demonstrate statewide support for its Race to the Top plan.

I. Final Priorities

General Comments on Proposed Priorities

Comment: We received a number of comments that addressed more than one proposed priority or that focused on a proposed priority as well as on specific selection criteria.

Discussion: In some cases we have responded to comments received in response to more than one priority or that focused on a priority and selection criteria in this ''General Comments on Proposed Priorities'' section. In other cases, we decided that it would be more appropriate to respond to the comments in the ''General Comments on the Race to the Top Program'' earlier in this notice. This enabled us to group similar comments and concerns in order to be more responsive to the commenters.

Changes: None.

Comment: One commenter stated that including absolute, competitive preference, and invitational priorities in the NPP was confusing and undermined the review process by suggesting that the Department does not have a clear sense of what is important. Another commenter recommended eliminating the invitational priorities claiming that they provide no competitive advantage in the grant competition and distract from the key elements of the program.

One commenter requested that the final notice include an explanation of the differences and significance of the competitive preference priority for STEM and the invitational priorities for data systems, P–20 coordination, and school-level conditions for reform and innovation. Another commenter asked whether different weights will be assigned to the absolute priority versus the competitive preference and invitational priorities.

Two commenters expressed concern with the statement in the NPP that the Secretary reserves the right to propose additional priorities, requirements, definitions, or selection criteria. These commenters requested that any additional priorities, requirements, definitions, or selection criteria be published in the **Federal Register** and that the public be given the opportunity to comment on them.

Discussion: The Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.105(c) identify the types of priorities the Department may establish for its direct grant programs. Under an absolute priority, the Secretary considers only those applications that meet the priority (*see* 34 CFR 75.105(c)(3)). Under a competitive preference priority, the Secretary may award bonus points to an application depending on the extent to which the application meets the priority or may select an application that meets the priority over an application of comparable merit that does not meet the priority (*see* 34 CFR 75.105(c)(2)). And, under an invitational priority, the Secretary may simply invite applications that meet the priority; an application that meets the invitational priority, however, receives no competitive or absolute preference over other applications (*see* 34 CFR 75.105(c)(1)).

The designation of priorities as invitational in the NPP and in this final notice demonstrates the Department's interest in particular topics or issues and applicants' interest in and capacity to address those areas. Applicants are not required to address these invitational priorities in their applications. Because the Department is interested in State focus and capacity in the areas identified as invitational priorities, we decline to remove them in this final notice.

In this final notice, we are designating priority 1, Comprehensive Approach to Education Reform, as an absolute priority that all applicants must meet. Priority 2, Emphasis on Science, Technology, Engineering, and Mathematics (STEM), has been designated as a competitive preference priority for which a State can receive additional points (*see* Appendix B for the scoring rubric). Finally, we are including the following invitational priorities: Priority 3, Innovations for Improving Early Learning Outcomes; priority 4, Expansion and Adaptation of Longitudinal Data Systems; priority 5, P–20 Coordination, Vertical and Horizontal Alignment; and priority 6, School-Level Conditions for Reform, Innovation, and Learning. Unless certain exceptions apply, the Department must conduct notice-and-comment rulemaking when establishing absolute and competitive preference priorities. *See* 34 CFR 75.105(b)(2). Notice-and-comment rulemaking is not required for the Department to establish invitational priorities. *See* 34 CFR 75.105(b)(2)(i). As noted by one commenter, we stated in the NPP that the proposed priorities could be changed in the final notice, and that the Department may propose additional priorities, requirements, definitions, or selection criteria, subject to applicable rulemaking requirements. As indicated elsewhere, we are adding a new invitational priority 3, Innovations for

Improving Early Learning Outcomes, based on comments received on the NPP. Since the priority is invitational only, we were able to include it in this final notice without additional public comment.

Changes: None.

Comment: Several commenters recommended that invitational priorities 4, 5, and 6 be changed to competitive preference priorities given the importance of each of the priorities and the need for States to have an integrated and coordinated reform strategy. One commenter recommended that additional points be given to a State that demonstrates how all the invitational priorities are integrated in its overall reform strategy.

Discussion: We believe that priorities 4, 5, and 6 are appropriately designated as invitational priorities. Although the Secretary is interested in receiving applications addressing these priorities, each of the priorities extends or complements the core reform work that States must already address in their applications. For example, priority 4, Expansion and Adaptation of Statewide Longitudinal Data Systems, extends States' core work in developing statewide longitudinal data systems; priority 5, P–20 Coordination, Vertical and Horizontal Alignment, complements States' core reform efforts in the K–12 education systems and extends them to the larger P–20 education systems; and priority 6, School-level Conditions for Reform, Innovation, and Learning, is a natural extension of the work States are doing to create, through law, regulation, or policy, other conditions favorable to education reform or innovation that improve student outcomes. For these reasons, we do not believe that extra points should be awarded to applications that address the invitational priorities.

Changes: None.

Comment: One commenter recommended adding an invitational priority to support alternative governance structures. The commenter stated that in addition to charter schools, mayoral control, gubernatorial control, and State control have been effective in reforming public education.

Discussion: As noted elsewhere, we are adding criterion (F)(2)(v) to give credit to States that enable LEAs to operate innovative, autonomous public schools other than charter schools.

Changes: None.

Literacy

Comment: Numerous commenters recommended that the final notice include a competitive preference priority focused on literacy development for young children; reading and writing skills for young students; and higher-order literacy skills for adolescent students (*e.g.*, ability to analyze diverse texts and write using critical reasoning). Many commenters also proposed that priority be given to States that prepare more students (particularly low-income students, English language learners, and students with disabilities) for success in school and for graduation from high school ready for college and work, and with skills to meet the literacy demands of high-growth, high-wage jobs. Another commenter suggested that the final notice include access to high-quality school libraries as part of the criteria.

Discussion: Advancing the literacy skills of all students, particularly students from low-income families, English language learners, and students with disabilities, is the foundation for many of the criteria in the Race to the Top competition. For example, a State will be judged on the extent to which it has made progress over the past several years in each of the four education reform areas, and used its ARRA and other Federal and State funding to pursue such reforms (*see* criterion (A)(3)(i)). A State will be judged on the extent to which it has demonstrated a track record of improving student achievement overall and by student subgroup in reading/language arts and mathematics, decreasing the achievement gaps between subgroups in reading/language arts and mathematics, and increasing high school graduation rates (*see* criterion (A)(3)(ii)). We believe that applicants must necessarily place priority on improving and advancing the literacy skills of students if they are to adequately address these criteria, and, therefore, do not believe that a separate competitive preference priority focused on literacy is necessary. Additionally, States and LEAs may determine in partnership the roles school libraries can play in advancing the State's reform goals.

Changes: None.

Early Learning

Comment: Numerous commenters expressed concern that the NPP did not include a priority for, or otherwise require applicants to address, early learning in the context of the four reform areas. Several commenters highlighted the importance of early childhood education in improving student achievement and closing achievement gaps, and some cited research indicating that the most effective time to intervene to close achievement gaps is during the preschool years. Many commenters requested that the final notice include a competitive preference priority focused on early learning programs. One commenter stated that a competitive preference priority on early learning should focus on increasing the number of low-income children in high-quality pre-K programs. Other commenters recommended requiring a quality early learning strategy as part of a State's plan for turning around struggling schools. A number of commenters suggested that such a strategy could include expanded pre-K funding and programs, aligned standards and assessments for pre-K through third grade, links between longitudinal data systems and pilot ''Quality Rating and Improvement Systems'' to improve instruction, and increasing the availability of credentialed pre-K through third-grade teachers.

Another commenter recommended that States be required to address the following issues to strengthen the quality of early care and education programs: (1) Appropriate compensation to attract and retain talented administrators and teachers in early care and education programs; (2) the need for a technological infrastructure to establish a data-driven decision-making system, as well as to document the benefits of early care and education services; (3) creation of a State-level advisory body to develop a State early learning plan, monitor the implementation of the plan and recommend adjustments to strengthen strategies as the plan is implemented; and (4) creation of a panel, that includes providers, to determine the true cost of supporting a quality early care and education system.

A few commenters recommended adding an invitational priority to the final notice focusing on the coordination of preschool services (including Head Start services and services provided under the Individuals with Disabilities Education Act (IDEA)) in order to ensure that more young children begin school ready to learn.

Discussion: The Department agrees that expanding access to high-quality early learning programs is a key strategy in an overall effort to raise student achievement, particularly for high-need students. We agree that the Race to the Top program should encourage States to increase the quality of existing early learning programs and expand access to high-quality early learning programs, particularly for children from low-income families. Therefore, we are adding an invitational priority focused on early learning to this final notice.

We do not believe that States should be required to include an early learning focus in their applications or that States should be given competitive preference points for doing so. Nor do we believe that quality early learning strategies should be required to be part of a State's plan for turning around struggling schools, given that efforts to turn around struggling schools focus primarily on improving educational outcomes for students currently enrolled in the Nation's persistently lowest-achieving schools. We believe that an invitational priority will encourage applicants to consider how their reform efforts can be strengthened by focusing on activities that promote school readiness and ensure that all children have access to high-quality early learning programs.

With regard to the request that States be required to address the issues that one commenter stated were necessary for strengthening the quality of early care and education programs, a State that chooses to include a focus on early learning in its application could include activities addressing the educational needs of young children in its State reform plan. We note, however, that funds could not be used to address issues related to early child care needs, absent an educational component, because the purpose of Race to the Top is for States and LEAs to address educational reforms. Given the variation in State needs and priorities, we do not believe that it would be appropriate to require all applicants to follow the commenter's recommendations.

In response to the recommendation to add an invitational priority focusing on the coordination of preschool services, this focus is already included in priority 5, P–20 Coordination, Vertical and Horizontal Alignment, which encourages State reform plans to address how early childhood programs, K–12 schools, postsecondary institutions, and other State agencies and community partners will coordinate to create a more seamless P–20 route for students.

Changes: We have added a new invitational priority 3—Innovations for Improving Early Learning Outcomes, which states, ''The Secretary is particularly interested in applications that include practices, strategies, or programs to improve educational outcomes for high-need students who are young children (pre-kindergarten through third grade) by enhancing the quality of preschool programs. Of particular interest are proposals that support practices that (i) improve school readiness (including social, emotional, and cognitive); and (ii) improve the transition between preschool and kindergarten.''

School Climate and Culture

Comment: Several commenters recommended that the final notice include a priority to encourage States to implement policies and take actions intended to improve school climate, such as citizenship training, anti-bullying, or service learning programs that may improve academic achievement, school attendance, and graduation rates. One commenter recommended adding an invitational priority for States that implement evidence-based measures to improve student discipline, stating that there is a well-documented link between school safety/school discipline and improved academic outcomes. Several commenters specifically recommended that we provide for States to address school-wide systems of positive behavioral interventions and supports and stated that improving school climate is integral to improving the achievement of the lowest performing students. Another commenter stated that unless the Department designates school climate as a top priority, equal to that of academic improvement, schools are extremely unlikely to focus on improving school climate. A few commenters recommended encouraging States to collect data on school environments. Other commenters suggested that States support and recognize schools that provide opportunities for students to practice their education in real-world situations that lead to civic engagement. The commenters stated that States should ensure that, in policy and funding decisions, schools know that they are to be honored, as well as held accountable, for creating a caring, welcoming, safe environment.

Other commenters strongly recommended that the final notice include language that would require schools to address the needs of the whole child, including by providing character education; instruction in social, emotional, and physical wellness; civic education and engagement; arts education; community-based learning; and opportunities for parent involvement. One commenter stated that it is essential for schools to work in collaboration with health, social, civic, faith-based, business and community organizations in order to successfully educate the whole child. One commenter expressed concern that the proposed priorities emphasize math, reading, and science at the expense of the other core academic subjects and argued that there should be an equal emphasis on the social, emotional, and creative development of students. Another commenter stated that efforts to shift education to address the needs of the whole child should be part of, and fully integrated into, a well-rounded core curriculum of academic instruction. Finally, one commenter stated that the proposed priorities incorrectly omit any reference to reducing the use of punitive measures in schools, and recommended that the final notice emphasize the Secretary's policy on reducing the use of restraints, seclusion, and corporal punishment.

Discussion: We agree that a positive school climate that includes policies and measures to improve discipline can contribute to improving academic achievement, school attendance, and graduation rates. We also agree that it is important to address the needs of the whole child and to work in collaboration with other agencies and community organizations in order to successfully educate the whole child. Therefore, we are changing priority 6, School-Level Conditions for Reform, Innovation, and Learning to include school climate and school culture as examples of areas in which an LEA could provide flexibility and autonomy to its schools in order to create conditions for reform, innovation, and learning. The language in new paragraph (vi) of this priority acknowledges the importance of creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement; the language in new paragraph (vii) of the priority focuses on implementing strategies to effectively engage families and communities in supporting the academic success of their students.

In addition, we note that the final notice addresses issues of school climate and culture in several ways. First, invitational priority 4, Expansion and Adaptation of Statewide Longitudinal Data Systems, invites States to include school climate and culture measures in extending and adapting their statewide longitudinal data systems. Consistent with commenters' examples of school policies and programs to improve school climate, we also have included references to ''service learning'' and ''experiential and work-based learning opportunities'' in the definition of *increased learning time,* as examples of activities that contribute to a well-rounded education. And we have included in our school intervention turnaround and transformation models for the persistently lowest-achieving schools (*see* criterion (E)(2) and

Appendix C) the need to address students' social and emotional needs and to create healthy school climates and cultures. We do not, therefore, believe that a new separate priority focusing on school climate and culture is necessary.

We acknowledge that positive behavioral interventions and supports, as well as other systemic programs and policies that address bullying, student harassment, and disciplinary problems, are important to consider in ensuring that students have a safe and supportive environment in which to learn. However, we do not believe it is necessary to include this level of detail in this final notice and, therefore, decline to make the changes requested by the commenters.

Finally, in response to the comment that the notice does not reference reducing the use of punitive measures, on July 31, 2009, the Secretary encouraged each State to review its current policies and guidelines regarding the use of restraints and seclusion in schools to ensure that every student is safe and protected and, if appropriate, develop or revise its policies and guidelines. We believe that this is the proper approach to addressing this issue, rather than in a notice for a competitive grant program for which all States will not necessarily apply or receive funding. It would be appropriate for States that choose to address priority 6 to include, in their reform plans, a focus on ensuring that policies and guidelines address the use of restraints and seclusions in schools to ensure that every student is safe and protected.

Changes: We have revised priority 6 to include as examples of the autonomies and flexibilities a State's participating LEAs may provide to its schools: Creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement and implementing strategies to effectively engage families and communities in supporting the academic success of their students.

Charter Schools

Comment: Several commenters recommended that the final notice include an absolute priority requiring States to expand charter schools.

Discussion: We do not believe an absolute priority for charter schools is necessary because States already will be evaluated against criteria that support the development of high-quality charter schools. Criterion (F)(2) focuses on charter schools. Specifically, criterion (F)(2)(i) considers the extent to which a State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools in the State or otherwise restrict student enrollment in charter schools. Criterion (F)(2)(ii) considers the extent to which the State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools. Under criterion (F)(2)(iii), a State will be evaluated based on the extent to which its charter schools receive equitable funding and a commensurate share of local, State, and Federal revenues. Finally, criterion (F)(2)(iv) addresses the extent to which a State provides charter schools with funding for facilities, assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which a State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools. All applicants will be rated against these criteria, among others.

Changes: None.

Dropout Recovery

Comment: One commenter expressed concern that the NPP did not include targeted investments for dropout recovery programs or provide States and LEAs with direction on innovative models to re-engage youth who have dropped out of school. The commenter stated that the recovery of high school dropouts must be a central component of any serious systemic school reform effort. Several commenters stated that it is important to recognize that students who fail to thrive in traditional settings need additional supports to graduate from high school and that, without strategic approaches that intentionally include re-engagement efforts, districts will not serve this population effectively.

Another commenter recommended that the final notice include a competitive preference priority for serving students who are still in school, but are off-track to graduate and those who have disengaged from school and dropped out. The commenter noted that educational continuity and stability are also needed for children in foster care. One commenter recommended establishing a competitive preference priority for applicants that include data-driven strategies to re-engage high-school students who fail to graduate on time and recommended that the final notice encourage States to coordinate Race to the Top funding with funding they receive through other sources such as programs under the Workforce Investment Act.

Discussion: We agree that there is a need to increase efforts to re-engage youth who have dropped out of school and to help students who are off-track to graduate stay in school. We have addressed the needs of these students in several ways. First, as noted elsewhere, we are changing criterion (E)(2) (regarding States' plans to enable their LEAs to implement one of the four school intervention models) to include credit-recovery programs and re-engagement strategies as methods that can be used by LEAs to increase high school graduation rates (see Appendix C). Second, we are adding a new definition of *high-need students* and including in the definition, among others, students who are performing far below grade level, those who leave school before receiving a regular high school diploma, and those at risk of not graduating with a diploma on time. Third, as noted in the discussion of priority 4, we are inviting States to extend and adapt their statewide longitudinal data systems to include data from programs that serve at-risk students and from dropout prevention programs. Fourth, we are adding a reference to horizontal alignment in priority 5. Horizontal alignment is the coordination of services across schools, State agencies, and community partners, and we note that it is important in ensuring that high-need students have access to the broad array of opportunities and services they need and that are beyond the capacity of a school itself to provide. We also note that priority 6, School-Level Conditions for Reform, Innovation, and Learning, specifically refers to the need to provide comprehensive services to high-need students (*see* paragraph (v)). Therefore, we believe that this final notice adequately addresses the needs of students off-track to graduate who are still in school and those who have disengaged from school and dropped out, and that it is unnecessary to add a competitive preference priority focused on these specific youth.

With regard to the comment that the final notice encourage coordinating ARRA funding with other funding streams, we believe this issue is addressed in criterion (A)(2)(i)(d), which will evaluate the extent to which a State has the capacity to use Race to the Top funds, as described in the State's budget and budget narrative, to accomplish the State's plan and meet its targets, including, where feasible, by coordinating, reallocating, or ''repurposing'' education funds from other Federal, State, and local sources to

align with the State's Race to the Top goals.

Changes: None.

Students With Disabilities and English Language Learners

Comment: One commenter encouraged the Department to add invitational priorities that focus on policy development and implementation (versus data collection and analysis) for special education and English language acquisition, including the development of high-quality and innovative programs of teacher preparation and professional development in these areas, in order to encourage States to meet the needs of students with disabilities and English language learners more effectively. Another commenter expressed disappointment that the priorities did not thoroughly take into account the needs of English language learners. One commenter strongly urged the Department to ensure that English language learners are not overlooked in State plans, but are explicitly identified in all areas, including through efforts to improve standards and assessments, close achievement gaps, increase graduation rates, and ensure college readiness.

Discussion: The needs of students with disabilities and English language learners are addressed in many of the selection criteria and are especially highlighted everywhere the term *high-need student* is used; the new definition of this term includes students with disabilities and English language learners. All applicants for Race to the Top grants will need to consider how they currently work to meet or plan to meet the unique needs of these students based on the criteria set forth in this final notice.

In addition, this final notice recognizes and specifically references the unique needs of students with disabilities and English language learners in the following areas: (a) Priority 4 encourages State plans to expand statewide longitudinal data systems to include or integrate data from special education and English language learner programs; (b) criterion (C)(3)(iii) will be used to assess the extent to which States make their data systems available and accessible to researchers so that they have information to evaluate the effectiveness of instructional materials, strategies, and approaches for educating different types of students, such as students with disabilities and English language learners; and (c) criterion (D)(3) will be used to examine States' plans to increase the number and percentage of highly effective teachers teaching in hard-to-staff subjects and specialty areas, such as special education and language instruction educational programs (as defined under Title III of the ESEA). In addition, the measures used to document increases in achievement, closing achievement gaps, and increasing graduation rates, all require data to be disaggregated by subgroups, including the students with disabilities and limited English proficient students subgroups (*see* criteria (A)(1)(iii) and (A)(3)(ii)).

Therefore, we believe that this final notice ensures that students with disabilities and English language learners are not overlooked in State reform plans and that it is unnecessary to add an invitational priority focused on students with disabilities and English language learners.

Changes: None.

Curriculum, Instruction, Assessments, Professional Development

Comment: One commenter stated that the proposed priorities have little to do with improving curriculum, instruction, assessments, or professional development and recommended that in the final notice, the Department give priority to developing and implementing core school improvement activities, particularly school-based collaborative activities to improve teaching.

Discussion: We disagree with the commenter's statement that the proposed priorities have little to do with improving curriculum, instruction, assessments, or professional development. In order to receive a Race to the Top grant, States must demonstrate that they have made and will continue to drive significant improvement in student outcomes, including making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring that students are prepared for success in college and careers. To accomplish this, a State would have to focus on improving curriculum, instruction, assessments, and professional development. Furthermore, absolute priority 1 requires all applicants to address comprehensively each of the four education reform areas specified in the ARRA—enhancing standards and assessments, improving the collection and use of data, increasing teacher effectiveness and achieving equity in teacher distribution, and turning around struggling schools. In addressing each of these reform areas, States will necessarily have to focus on improving curriculum, instruction, assessments, and professional development.

Furthermore, criteria (B)(3), (C)(3)(ii), (D)(2)(iv)(a), and (D)(5) explicitly focus on professional development. Criterion (B)(3) focuses on, among other activities, professional development to support the transition to new standards and assessments; as noted elsewhere, criterion (C)(3)(ii) has been added to focus on professional development for teachers, principals and administrators on using instructional improvement systems to support continuous instructional improvement; criterion (D)(2)(iv)(a) refers to using teacher and principal evaluations to inform relevant professional development; and criterion (D)(5) focuses on the need for States and LEAs to provide effective data-informed professional development, coaching, induction, and common planning and collaboration time to teachers and principals that are, where appropriate, ongoing and job-embedded.

Changes: None.

Research-Based Practice

Comment: One commenter recommended adding an invitational priority to encourage States to adopt programs that have been demonstrated to be effective through rigorous research. The commenter stated that priority should be given to States that identify resources to help their LEAs select programs that are supported by the best available empirical evidence.

Discussion: Criterion (A)(2)(i)(b) will be used to judge the extent to which a State has the capacity to support its participating LEAs in successfully implementing the education reform plans the State has proposed through such activities as identifying promising practices, evaluating these practices' effectiveness, and ceasing ineffective practices. In addition, criteria (C)(2) and (C)(3) focus on gathering and using data to support continuous improvement, including a specific focus on making the data available and accessible to researchers to evaluate the effectiveness of instructional materials, strategies, and approaches. We believe these criteria address the commenter's concerns and, therefore, that it is unnecessary to add the invitational priority suggested by the commenter.

Changes: None.

Using Data To Inform Practice

Comment: One commenter urged the Department to add a competitive preference priority for establishing an ''evidence-based learning cycle'' to improve system-wide policy and student achievement results. The commenter recommended that the

competitive preference priority encourage States to: (1) Design robust formative and summative evaluations on their Race to the Top programs; (2) gather data on the highest-priority teacher and principal actions, and school-level and classroom-level practices that differentiate fast-improving schools and classrooms from other schools and classrooms; and (3) document these practices so that other teachers, school leaders, and State and local policymakers can access and use these tools and evidence to drive a continuous cycle of improvement in other schools, classrooms, and systems.

Another commenter recommended adding the development of longitudinal data systems as a competitive preference priority in order to accelerate development and implementation of next-generation, user-oriented data systems that provide timely, useful data for teachers and principals to use in managing performance and improving student achievement; prioritize academic data with an emphasis on leading predictive indicators; include routine data inquiry processes and training to support educators in the effective interpretation and use of data that result in improved student achievement; and enhance State and local capacity to use data and improve the systematic integration and use of data over time.

Discussion: The evidence-based learning cycle and the user-oriented data systems proposed by the commenters are similar in concept to criteria (C)(2) and (C)(3). Criteria (C)(2) and (C)(3) focus on the use of data from the State's statewide longitudinal data system and the local instructional improvement systems to support continuous improvement both within and outside of the classroom. In addition, priority 4 focuses on expanding statewide longitudinal data systems to include or integrate data from a variety of sources, including, for example, human resources, school finance, and other relevant areas with the purpose of connecting and coordinating all parts of the system to inform continuous improvement practices. Therefore, we do not believe it is necessary to make the changes recommended by the commenters.

Changes: None.

Flexibility in Operating Conditions

Comment: One commenter recommended that the Department include an invitational priority for applicants that commit to implementing the reforms and providing flexible operating conditions for their schools.

Discussion: We agree that flexibility in operating conditions is an important strategy to facilitate reform efforts. That is why we included priority 6, School-Level Conditions for Reform, Innovation, and Learning, which focuses on flexibilities and autonomies that an LEA provides to its schools in order to create the conditions for reform, innovation, and learning.

Changes: None.

Priority 1: Absolute Priority—Comprehensive Approach to Education Reform:

General Comments

Comment: Numerous commenters expressed support for absolute priority 1 and its focus on ensuring that States comprehensively address each of the four education reform areas and take a systemic approach to education reform. The commenters stated that this approach will encourage school systems around the country to implement much-needed changes that will improve student outcomes. One commenter stated that this approach sets a much higher bar for State applications than is typically required of competitive grant programs and was supportive of this approach. Another commenter encouraged the Department to award Race to the Top grants only to those States that pursue significant comprehensive and systemic reforms. However, one commenter expressed concern that this approach would encourage States to lower standards rather than provide incentives for States to improve their educational standards and put in place the reforms necessary to improve educational outcomes.

Discussion: We appreciate the support for absolute priority 1 and its focus on a comprehensive and systematic approach to addressing the four education reform areas specified in the ARRA. We do not agree with the commenter that a comprehensive and systematic approach to the four reform areas will encourage States to lower standards. The focus on improving student achievement, decreasing achievement gaps, and increasing high school graduation rates, and the use of sound measures, such as the results from the NAEP, will help ensure that States do not lower their standards. In addition, unlike in other competitive programs, we are rewarding States that have already created the conditions for reform and improved student outcomes and have a strong foundation for implementing plans going forward. States that have lowered their standards will not clear the high bar that we have set for awards under the Race to the Top program.

As noted elsewhere, we are adding to this final notice a new section (A), State Success Factors. We are revising a number of the selection criteria from proposed section (E) (Overall Selection Criteria) and including them as State Success Factors Criteria (A). The purpose of this change is to provide States with the opportunity to begin their proposals with clear statements of their integrated, coordinated, statewide reform agendas. In order to be consistent with this change, we are changing the language in priority 1 to provide that, in addition to addressing the four education reform areas, State applications also must address the State Success Factors Criteria. Consistent with this focus on the State Success Factors Criteria, we are adding clarifying language and removing the reference to the four reform areas in the title of absolute priority 1.

With regard to the use of NAEP scores to measure increasing student achievement, we are removing this reference in priority 1 because, as noted elsewhere, the new section on State Success Factors describes how increases in student achievement and closing achievement gaps across subgroups will be measured. State Success Factors Criteria (A)(1)(iii) and (A)(3)(ii) specify that when evaluating increases in student achievement and gap-closing, reviewers will examine results in reading/language arts and mathematics based on the NAEP and on the assessments required under the ESEA.

Changes: Absolute priority 1 has been revised to read: ''To meet this priority, the State's application must comprehensively and coherently address all of the four education reform areas specified in the ARRA as well as the State Success Factors Criteria in order to demonstrate that the State and its participating LEAs are taking a systemic approach to education reform. The State must demonstrate in its application sufficient LEA participation and commitment to successfully implement and achieve the goals in its plans; and it must describe how the State, in collaboration with its participating LEAs, will use Race to the Top and other funds to increase student achievement, decrease the achievement gaps across student subgroups, and increase the rates at which students graduate from high school prepared for college and careers.''

Competitive Preference Priority 2: Emphasis on Science, Technology, Engineering, and Mathematics (STEM):

Comment: Numerous commenters expressed support for including an emphasis on STEM education as a competitive preference priority. The

commenters noted that major developments in medicine, energy, and agriculture are dependent on innovations in STEM fields and stated that engaging students in STEM education programs is the most effective way to improve the Nation's economy and maintain America's global leadership. One commenter recommended changing the priority to an absolute priority and another commenter recommended adding selection criteria related to STEM education.

However, many commenters stated that designating STEM as a competitive preference priority implies that STEM subjects are more important than other subjects and recommended omitting or changing the STEM priority to an invitational priority. One commenter asked why the Department chose to emphasize STEM subjects over other subjects.

Numerous commenters expressed concern that including a competitive preference priority on STEM education would lead to a narrowing of the curriculum. One commenter expressed concern that a competitive preference priority emphasizing STEM education might encourage STEM-only programs, as opposed to STEM-focused programs in which the content is integrated into various curricular areas. The commenter expressed concern that the priority would prohibit States from applying data-driven reform and school achievement interventions that do not focus on STEM. Another commenter recommended changing the priority to give States the option of using data to develop plans that meet the needs of their low-performing schools.

Discussion: We appreciate the support expressed for including a competitive preference priority on STEM education. Ensuring American competitiveness in a global economy requires significant improvements in STEM education. As the commenters noted, professionals in STEM fields are major contributors to the American economy in such areas as medicine, agriculture, and energy. Science-based industries are in need of skilled workers, and we believe a competitive preference priority on STEM will help schools produce a generation of Americans who can meet this demand. Therefore, we decline to eliminate priority 2 or to re-designate priority 2 as an invitational priority. We did not intend for an emphasis on STEM education to result in a narrowing of the curriculum. Rather, our intent was to focus attention on the need to develop and implement rigorous courses of study in STEM fields, assist teachers in providing effective and relevant instruction in those fields, and prepare more students for advanced study and careers in STEM. While we believe increasing the focus on STEM education is important, we do not believe that an emphasis on STEM education should be required as part of the core work that States are required to address in their reform plans for the Race to the Top program. Therefore, we decline to change the emphasis on STEM education to an absolute priority or include selection criteria emphasizing STEM education. With regard to commenters' concerns that emphasizing STEM education might encourage STEM-only programs, as opposed to STEM-focused programs, we note that this notice specifically refers to preparing and assisting teachers in integrating STEM content across grades and disciplines. The priority will not prohibit States from using data from areas other than STEM education to drive reform, nor should it discourage them from doing so.

Changes: None.

Comment: Two commenters recommended that the final notice clarify the meaning of ''a rigorous course of study,'' as used in priority 2, by providing examples of what the Department considers to be rigorous courses of study. The commenters suggested Advanced Placement courses and STEM-intensive courses, such as those offered in many career and technical education programs, as examples of rigorous courses of study. One commenter recommended including a reference to career preparatory coursework. Two commenters recommended the final notice include an incentive for States that assess the alignment of rigorous courses of study in STEM subjects with other courses of study in a school's curriculum.

Discussion: The Department believes that States should have the flexibility to determine the content and focus of a rigorous course of study in STEM subjects and, therefore, declines to add examples of rigorous courses of study in priority 2. In determining the rigor of a course in STEM subjects, local decision-makers will likely assess how STEM subjects are integrated and aligned with other courses offered in a State or LEAs' current programs of study. Therefore, we do not believe that it is necessary to provide incentives for doing so.

Changes: None.

Comment: A few commenters recommended that the final priority reference additional STEM-capable community partners such as youth-serving community organizations, ''valued-added intermediaries,'' and public broadcasting entities. One commenter strongly recommended that the Department provide guidelines for selecting STEM-capable partners. Another commenter noted that non-school settings, such as museums and science centers, offer designed spaces and programs to engage students and encourage them to pursue and develop interests in scientific inquiry that may positively influence academic achievement and expand students' sense of career options.

Discussion: To meet priority 2, applicants must cooperate with industry experts, museums, universities, research centers, or other STEM-capable community partners in preparing and assisting teachers to integrate STEM content across grades and disciplines, to promote effective and relevant instruction, and to offer applied learning opportunities for students. We do not believe it is appropriate to be more specific about the STEM-capable partnerships that States should form given that the resources and needs vary considerably across schools and communities; such decisions are best left to local decision makers. Therefore, we decline to include additional examples of STEM-capable partnerships or to provide guidelines for selecting STEM-capable partners, as requested by commenters.

Changes: None.

Comment: One commenter recommended that the Department revise priority 2 to explicitly include computer science as part of STEM education. The commenter stated that computer science is often confused with technology literacy and this confusion leads to teaching basic skills instead of core concepts and problem solving. The commenter noted that computer science provides students with a fundamental understanding of computing, exposure to professional fields, and opportunities to develop computational thinking skills.

Discussion: STEM education includes a wide-range of disciplines, including computer science. We believe that States should have the flexibility to define the specific courses of study in mathematics, the sciences, technology, and engineering, based on the needs and available resources of the State, as well as the advice of industry experts, museums, universities, research centers, and other STEM-capable community partners. Therefore, we decline to change priority 2 to specify that computer science is a part of STEM education, as requested by the commenter.

Changes: None.

Comment: One commenter recommended that the Department require States to implement the recommendations of the National Mathematics Advisory Panel regarding K–8 mathematics teacher preparation programs and licensing requirements. The commenter stated that teacher preparation programs and licensing requirements for K–8 mathematics teachers should address arithmetic, geometry, measurement, and algebra. Another commenter recommended requiring States to provide funds for improving State licensing requirements in order to ensure that K–8 teachers master core mathematics content. One commenter recommended that the Department require in-service training for K–8 mathematics teachers. Another commenter recommended that the Department revise priority 2 in order to ensure that teachers in high-risk, low-performing schools are provided with professional development opportunities, mentoring, and the necessary guidance to ensure that rigorous courses of study in STEM subjects are taught in these schools.

Discussion: We do not believe that it would be appropriate for the Department to require States to implement the recommendations of the National Mathematics Advisory Panel regarding mathematics teacher preparation programs and licensing requirements; decisions regarding teacher preparation programs and licensing requirements are best left to State and local officials to make depending on the unique needs and circumstances in each State. With regard to the recommendation to require in-service training and professional development, mentoring, and guidance in STEM subjects to teachers in high-risk, low-achieving schools, we note that this final notice includes several criteria that address the professional development needs of teachers, including criteria (B)(3), (C)(3)(ii), (D)(2)(iv)(a), and especially (D)(5), which focuses on the extent to which States provide effective support to teachers and principals. We believe that these criteria adequately address the commenter's concerns regarding professional development; States addressing the STEM competitive preference priority will have ample opportunities to address professional development needs in their responses to these criteria. We therefore decline to change priority 2 in the manner recommended by the commenter.

Changes: None.

Comment: A few commenters recommended that the Department encourage States to recruit, train, and provide alternative pathways for STEM professionals to join the teaching force as full-time teachers, co-teachers, or professional development providers. The commenters noted that STEM professionals in the classroom would help students understand the career opportunities available for individuals with knowledge in STEM subjects. One commenter recommended providing additional credit to States that use ''informal science education centers'' as resources for professional development.

Discussion: We agree with commenters that efforts should be made to recruit and train STEM professionals to join the teaching force as teachers and that having such professionals in the classroom would help students understand the career opportunities available in STEM fields. Criterion (D)(1), which assesses the extent to which a State has high-quality pathways for aspiring teachers and principals, addresses this concern. To the extent that the informal science education centers, referred to by one commenter, provide professional development as an alternative route to certification, States that permit use of such centers would be given credit under criterion (D)(1)(i). Therefore, we decline to give additional credit to States that use such centers as recommended by one commenter.

Changes: None.

Comment: One commenter recommended that the Department invite States to strengthen their early childhood education programs by including STEM education in their State reform plans for early learning programs.

Discussion: As noted elsewhere, we are adding an invitational priority for early learning programs (*see* priority 3), which includes a focus on improving young children's school readiness, and a competitive preference priority for STEM education (*see* priority 2). States that choose to address either of these priorities could include a description of efforts to ensure that early learning program standards and curricula include developmentally appropriate science, pre-numeracy, and numeracy content in order to help prepare young children to succeed in STEM-related areas when they enter school.

Changes: None.

Comment: One commenter recommended that the Department encourage States to provide high-level STEM curricula to advanced students in earlier grades than is typically the norm. The commenter noted that local policies and practices typically inhibit acceleration options and leave advanced students unchallenged.

Discussion: With regard to the commenter's recommendation that the Department encourage States to provide high-level STEM curricula to advanced students in earlier grades than is typical, States will have opportunities to include such concepts in their applications, if they so desire, through priority 6, which focuses on LEAs creating the conditions for reform and innovation by providing their schools with flexibilities and autonomies; through criterion (B)(3), which addresses instructional issues relating to enhanced standards; and by addressing competitive preference priority 2, which focuses on STEM education.

Changes: None.

Comment: One commenter urged the Secretary to encourage States to open statewide, public, residential high schools that focus on math and science.

Discussion: To the extent that a public residential high school would be considered an innovative school, we note that criterion (F)(2)(v) encourages States to enable LEAs to operate such innovative, autonomous public schools. Therefore, we do not believe that additional language in priority 2 is needed to address the commenter's recommendation.

Changes: None.

Comment: One commenter stated that the availability of up-to-date laboratory equipment plays an important role in STEM learning and requested that the Department clarify whether Race to the Top funds could be used to purchase laboratory equipment and technological tools to implement STEM programs. The commenter stated that the quality and quantity of equipment is inadequate in most schools, particularly in schools with high concentrations of at-risk students.

Discussion: The Race to the Top program provides States and LEAs with significant freedom to use Race to the Top funds to meet the goals outlined in their State reform plans. Laboratory equipment would be an allowable use of funds under the Race to the Top program.

Changes: None.

Comment: One commenter urged the Department to encourage States to develop a common set of core STEM standards and assessments. In addition, the commenter recommended that the Department encourage and reward States that enhance their high school graduation requirements to include four years of STEM courses.

Discussion: The Department is encouraging States to develop a common set of high-quality K–12 standards that are internationally benchmarked and that build toward

college- and career-readiness by the time of high school graduation. In addition, the Department is encouraging States to develop and implement common, high-quality assessments that are aligned with those standards. Thus, criterion (B)(1) assesses the extent to which a State has demonstrated its commitment to adopting a common set of high-quality standards, and criterion (B)(2) assesses the extent to which the State has demonstrated its commitment to improving the quality of its assessments. It is a State's responsibility to determine the content of those standards and assessments, including whether to develop a common set of core STEM standards and assessments. Likewise, States are responsible for establishing high school graduation requirements. Thus, whether or not four years of STEM courses are included as a requirement for graduation from high school is a decision that is made by States, not the Federal Government.

Changes: None.

Comment: Several commenters recommended that the Department require STEM instruction to be consistent with the principles of universal design for learning. The commenters noted that universal design for learning is defined in section 103(24) of the Higher Education Opportunity Act of 2008 (Pub. L. 110–315), as a structure that provides flexibility in instruction that accommodates, supports, and maintains high achievement expectations for all students, including students with disabilities and English language learners.

Discussion: Paragraph (ii) in priority 2 focuses on promoting STEM education that is effective, relevant, and includes applied learning opportunities for students. To the extent that such instruction can be provided consistent with the principles of universal design, we encourage States to do so. However, we do not believe it would be appropriate to require all instruction to be consistent with the principles of universal design for learning as recommended by the commenters.

Changes: None.

Comment: A few commenters recommended that the Department promote racial, economic, and gender integration in STEM programs. These commenters stated that programs funded by the Department have an obligation to be inclusive and remove discriminatory barriers. One commenter noted that STEM programs should be included in schools that serve low-income students to ensure that such students have access to STEM programs. Another commenter recommended that the Department reiterate that recipients of Race to the Top funds should remove obstacles that might discourage female students from enrolling and completing STEM programs.

Discussion: We agree with these commenters that all students should have access to rigorous courses of study in STEM programs. Paragraph (iii) in priority 2 specifically refers to State plans addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering, and mathematics. Therefore, we do not believe that additional language needs to be added to priority 2 to address the commenters' concerns.

Changes: None.

Comment: Two commenters recommended that the final notice reference advanced laboratory work, service learning, project-based learning, and work-based learning as examples of ''applied learning opportunities.'' The commenters stated that providing such examples would help clarify the meaning of applied learning opportunities as it is used in priority 2. One commenter recommended that the Department clarify that applied learning opportunities could occur during regular school hours, or before or after the regular school day.

Discussion: A State seeking to meet priority 2 is required to cooperate with industry experts, museums, universities, research centers, and other STEM-capable community partners to ensure that instruction is relevant and that students are provided with opportunities to apply what they have learned in the classroom. Such cooperative work with experts in STEM fields should provide a State with ample examples of applied learning opportunities. In addition, as noted elsewhere, we are adding a definition of *increased learning time;* this definition specifically references service learning and experiential and work-based learning and encourages such learning to occur during or outside of regular school hours. As such, we do not believe it is necessary to include examples of applied learning opportunities in priority 2, which could limit, rather than promote ideas and strategies to improve or enhance STEM education programs.

Changes: None.

Comment: One commenter recommended that priority 2 be changed to require State reform plans to describe how technology will be incorporated as a required component in STEM education programs. The commenter also recommended requiring State reform plans to include online access to high-quality STEM courses and instructors, remediation for low-performing students through interactive instructional software, virtual field trips, and online connections to STEM professionals.

Another commenter noted that programs supported by universities use technology and multimedia to improve teaching and learning of STEM subjects and recommended that universities and the business sector work in partnership with schools to prepare students for postsecondary education and workplace success.

Discussion: We agree that the approaches that commenters discussed can be useful in implementing STEM programs. However, we believe such decisions are best left to local officials who understand the needs and available resources in their schools and communities. We decline, therefore, to make the changes that the commenters recommend.

Changes: None.

Comment: One commenter asked how the Department will determine whether a State's application meets the competitive preference priority. The commenter asked specifically whether a ''pilot'' project focused on STEM education, rather than a comprehensive STEM program, would meet priority 2. Another commenter recommended that the Department require a State's proposed STEM programs to be evidence-based.

Discussion: Priority 2 describes the three elements that a State's reform plan must address to meet priority 2. These elements include the need to (i) offer a rigorous course of study in STEM subjects; (ii) cooperate with industry experts, museums, universities, research centers, or other STEM-capable community partners to prepare and assist teachers in integrating STEM content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities; and (iii) prepare more students for advanced study and careers in science, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in STEM areas. We are clarifying that, to meet the priority, the State's application must have a *high-quality plan* to address each of these elements. We do not believe it is necessary to require that a State's proposed STEM program be evidence-based in order to meet this priority; reviewers will judge the quality of the program that a State proposes, which will necessarily include the extent to

which the State's proposed STEM education program is evidence-based.

Changes: We have revised the priority to specify that, to meet this priority, the State's application must have a high-quality plan to address the areas specified in the priority.

Comment: One commenter stated that a significant investment is necessary to successfully improve student performance in STEM subjects and recommended that the Department revise priority 2 to provide a preference to States with the infrastructure to demonstrate results.

Discussion: We do not believe that preference should be given to States that already have the infrastructure in place to evaluate and demonstrate results. As part of its application, each State must provide a detailed budget and accompanying budget narrative describing how the State plans to use Race to the Top funds to accomplish the State's reform plan and meet its targets. The detailed plan for using grant funds must include, among other things, the key goals, the key activities to be undertaken, the rationale for the activities, and the timeline for implementing the activities (*see* application requirements). A State that includes a focus on STEM education must, therefore, include in its proposed budget how it plans to use grant funds or other Federal, State, and local funds to meet its goals related to improving STEM education.

Changes: None.

Priority 4—Invitational Priority—Expansion and Adaptation of Statewide Longitudinal Data Systems (Proposed Priority 3):

Comment: A number of comments were received on priority 4 that were similar to the comments received on criterion (C)(1), regarding implementing a statewide longitudinal data system; criterion (C)(2), regarding accessing and using State data; and criterion (C)(3), regarding using data to improve instruction.

Discussion: In some cases we have responded to comments received in response to priority 4 under section (C), Data Systems to Support Instruction. This enabled us to group similar comments and concerns in order to be more responsive to the commenters.

Changes: None.

Comment: One commenter recommended changing the title of this priority to ''Expansion, Adaptation, and Appropriate Utilization of State Longitudinal Data Systems.''

Discussion: We do not believe the lengthier title recommended by the commenter is necessary, and therefore, decline to change the title of priority 4.

Changes: None.

Comment: One commenter recommended that priority 4 be eliminated. The commenter stated that Race to the Top funds should be used to improve teaching and not for expanding data systems.

Discussion: Establishing a statewide longitudinal data system that provides data on student achievement or student growth to teachers and principals, as well as policymakers, researchers, and other stakeholders, is key to driving education reform in general, and improvements in the classroom, in particular. Therefore, we decline to eliminate priority 4.

Changes: None.

Comment: Several commenters recommended that priority 4 be changed from an invitational priority to a competitive preference priority because of the importance of linking data from various program areas with statewide longitudinal data systems. Several commenters stated that expanding and linking data systems are essential to achieving comprehensive reform in the four ARRA education reform areas, and therefore, recommended changing the priority to an absolute priority.

Discussion: We believe that priority 4 is appropriately designated as an invitational priority because it extends the work that States are already doing to address the criteria related to fully implementing statewide longitudinal data systems. A State will already be judged on the extent to which it has a statewide longitudinal data system that includes all of the America COMPETES Act elements (*see* criterion (C)(1)) and the extent to which it has a high-quality plan to ensure that data from the State's statewide longitudinal data system are used to support decision-makers in the continuous improvement of policy, instruction, operations, management, resource allocation, and overall effectiveness (*see* criterion (C)(2)). While we believe that the focus of priority 4 is important, it is not part of the core work that States must do to address the four education reform areas. Therefore, we decline to re-designate priority 4 as an absolute priority or as a competitive preference priority.

Changes: None.

Comment: One commenter requested clarification about the data that are required to meet this priority and the questions these data should be able to answer.

Discussion: Criterion (C)(1) will examine the extent to which a State has a statewide longitudinal data system that includes all of the America COMPETES Act. The purpose of priority 4 is to reward States that go beyond the 12 elements of the America COMPETES Act to connect their statewide longitudinal data systems to other data or data systems that may exist independently from a State's statewide longitudinal data system. The information that will be responsive to this priority will depend on each State's current statewide longitudinal data system, the extent to which it is already connected to other data or data systems, and the types of questions related to policy, practice, or overall effectiveness that a State needs to answer in order to implement its reform agenda. We believe that this purpose could have been stated more clearly in the priority and, therefore, are adding clarifying language.

Changes: We have changed the end of the last sentence in the first paragraph of the priority as follows: ''* * * with the purpose of connecting and coordinating all parts of the system to allow important questions related to policy, practice, or overall effectiveness to be asked, answered, and incorporated into effective continuous improvement practices.''

Comment: One commenter noted that statewide longitudinal data systems could be expanded in a number of ways such as including additional data from within the agency, from other State agencies, from other States, or from management systems that track and allocate resources. The commenter recommended that the priority include this clarification. Another commenter recommended that the priority encourage States to link their longitudinal data systems with data from other State agencies.

Discussion: While the commenter noted several ways in which statewide longitudinal data systems could be expanded, we do not believe that it is necessary to include this information in the priority, nor to encourage States to link their longitudinal data systems with data from other agencies. How States expand their data systems will depend on the current needs, resources, and capabilities of each State's statewide longitudinal data system. We remind States that they must consider how to protect student privacy as data are shared across agencies. Successful applicants that receive Race to the Top grant awards will need to comply with the Family Educational Rights and Privacy Act (FERPA), including 34 CFR Part 99, as well as State and local requirements regarding privacy.

Changes: None.

Comment: Many commenters recommended that statewide longitudinal data systems include student-level data on transfers, chronic

absenteeism, and in- and out-of-school suspensions, as well as school dropout rates, dropout and re-enrollment data, and data on students completing P–16 programs. One commenter recommended that data on ''student mobility'' be included in all data gathering and reporting. Other commenters strongly recommended that State longitudinal data systems include measures of school safety, culture, and climate.

Discussion: Applicants for Race to the Top grants will already be judged on the extent to which the State has a statewide longitudinal data system that includes all of the America COMPETES Act elements (*see* criterion (C)(1)). Those elements include, among other, student level enrollment, demographic, and program participation information; and student-level information about the points at which students exit, transfer in, transfer out, dropout, or complete P–16 education programs. It would not, therefore, be appropriate to include these elements in priority 4, which is focused on expanding statewide longitudinal data systems. However, we believe that it is appropriate to reference in priority 4 linking data from at-risk and dropout prevention programs, school climate and culture programs, and information on student mobility. Such data will complement and expand the data that States will be collecting through the America COMPETES Act elements. Therefore, we are adding language to the priority to refer to at-risk and dropout prevention programs, school climate and culture programs, and information on student mobility. For clarity, we also are adding a parenthetical following ''human resources.''

Changes: We have added the phrase ''at-risk and dropout prevention programs, and school climate and culture programs, as well as information on student mobility'' following ''early childhood programs'' in priority 4. We also have added ''(*i.e.,* information on teachers, principals, and other staff)'' following ''human resources.''

Comment: None.

Discussion: Throughout this notice, we have used the term ''English language learner,'' rather than ''limited English proficient,'' whenever possible. During our internal review, we noted that we inadvertently used ''limited English proficient'' in priority 4. Therefore, we are changing ''limited English proficient,'' to ''English language learner'' in priority 4.

Changes: We have replaced ''limited English proficiency'' with ''English language learner'' in priority 4.

Comment: Two commenters recommended that statewide longitudinal data systems include data on all postsecondary students, including adults who are enrolled part-time, taking non-credit courses, or participating in remedial programs. These commenters also recommended that statewide longitudinal data systems include data on participants in other educational and workforce training programs such as adult basic education programs. Several commenters recommended referencing data on career placements and State employment wage records as areas in which States should expand their systems.

Discussion: As priority 4 already references postsecondary data, we do not believe it is necessary to add specific detail about the types of postsecondary data that States should collect. Nor do we believe that it is necessary to reference data on career placements and State employment wage records. States that believe such data are important to their overall reform strategy can certainly propose to expand their statewide longitudinal data base by adding these elements.

Changes: None.

Comment: Two commenters referred to the statement in the proposed priority stating that the Secretary was interested in applications in which States propose working together to adapt statewide longitudinal data systems, rather than having each State build such systems independently. The commenters requested guidance on how States should work together and asked for clarity about whether one State should be designated as the lead and what would happen if only one of the States in the partnership is successful in receiving a Race to the Top award.

Discussion: States that propose to work together to adapt their statewide longitudinal data systems should include these proposed efforts in their reform plan and show how these efforts are coordinated with the State's larger reform efforts. When developing their plans, States should propose alternative options should one of the States not be awarded Race to the Top funds and be unable to devote other funds to achieve the outlined goals.

Changes: None.

Priority 5—Invitational Priority—P–20 Coordination, Vertical and Horizontal Alignment (Proposed Priority 4):

Comment: Several commenters recommended that priority 5, regarding P–20 coordination, include an emphasis on aligning a State's educational system with other State agencies and community organizations. The commenters stated that such ''horizontal'' alignment is just as important as ''vertical alignment,'' particularly for high-need students. One commenter recommended that the Department require State reform plans to provide information about how all parts of the State's education system will work to improve student achievement and the overall quality of schools, and how the State's education system will work with other supporting agencies and institutions to address the needs of all students. The commenter also recommended that State reform plans address how the improvement process will be managed effectively both within the educational system and across supporting agencies and institutions.

Numerous commenters stated that community-based organizations play a key role in assisting youth at the secondary level, particularly in helping them transition to postsecondary education, and therefore, should be included as partners in creating a seamless P–20 route for students. A few commenters stated that the educational system should work with child welfare, juvenile justice, and criminal justice agencies to help re-engage high school dropouts.

Discussion: We agree that priority 5 would be strengthened by including a focus on coordinating educational systems with other State agencies and community organizations that provide services to students that are beyond the capacity of schools to provide. This would include, for example, community-based organizations that serve youth, as well as child welfare, juvenile justice, and criminal justice agencies, as mentioned by commenters. Therefore, we are revising the priority, as well as the title of the priority, to reflect a focus on the ''horizontal alignment'' of the educational system with other agencies and community organizations. Applicants that choose to address priority 5 should include in their State reform plans how all parts of the education system will coordinate their work to create a more seamless P–20 route for students—both vertically, to ensure that students exiting one level of the education system are prepared for success in the next, as well as horizontally, to ensure that services across schools, State agencies, and community partners are coordinated and aligned.

With regard to the comment that State reform plans address how the improvement process will be managed effectively, we note that criterion (A)(2) focuses on the extent to which States have built strong statewide capacity to

implement, scale up, and sustain their proposed reform plans.

Changes: We have changed the title of priority 5 to: P–20 Coordination, Vertical and Horizontal Alignment. In addition we have added ''and other State agencies and community partners (*e.g.,* child welfare, juvenile justice, and criminal justice agencies)'' following ''organizations'' in the first sentence of the priority. Finally, we have added the following sentence at the end of the priority: ''Horizontal alignment, that is, coordination of services across schools, State agencies, and community partners, is also important to ensure that high-need students (as defined in this notice) have access to the broad array of opportunities and services they need and that are beyond the capacity of the school itself to provide.''

Comment: Many commenters recommended changing priority 5 from an invitational priority to a competitive preference priority, stating that P–20 alignment efforts are key to improving student transitions, and ultimately, student success. A few commenters recommended changing priority 5 from an invitational priority to an absolute priority. One commenter stated that coordination across and within systems can improve instruction, service delivery, and communication, and thus create an environment that encourages innovation.

Discussion: We believe that priority 5 is appropriately designated as an invitational priority because it extends beyond the core K–12 focus of the Race to the Top program. States will already be judged on the extent to which they set forth a comprehensive and coherent reform agenda for improving student outcomes statewide (*see* criterion (A)(1)) and the extent to which they enlist strong statewide support and commitment for their plans from a broad group of stakeholders, which may include other State agencies, nonprofit organizations, and community-based organizations (*see* criterion (A)(2)(ii)). While we believe that the focus of priority 5 is important, it is not part of the core work that States must do to address the four education reform areas. Therefore, we decline to re-designate priority 5 as an absolute priority or a competitive preference priority.

Changes: None.

Comment: Several commenters recommended that priority 5 encourage collaboration between K–12 schools, higher education, and workforce development organizations in order to create pathways to college and work. One commenter stated that partnerships with workforce development organizations would add relevance to classroom instruction and help develop school-work partnerships.

Discussion: We agree with the commenters and are changing ''workforce organizations'' to ''workforce development organizations'' to be clear that such organizations are important to creating a more seamless P–20 route for students. We also are including careers as an example of a critical transition point.

Changes: We have changed ''workforce organizations'' to ''workforce development organizations.'' In the parenthetical following ''each point where a transition occurs,'' we have changed ''postsecondary'' to ''postsecondary/careers.''

Comment: Two commenters recommended including family engagement in each State's P–20 plan.

Discussion: As part of its overall reform plan, States will be judged on the extent to which they have enlisted strong statewide support and commitment from a broad array of stakeholders, which includes community organizations, such as parent-teacher associations. Therefore, we do not believe it is necessary to add family engagement in this priority, as recommended by the commenters. We also note that priority 6 specifically focuses on flexibilities and autonomies for school-level reform, including those related to implementing strategies to effectively engage families and communities in supporting the academic success of their students (*see* paragraph (vii) in priority 6).

Changes: None.

Comment: One commenter recommended that the reference to vertical alignment in this priority include multiple education pathways to graduating from high school, such as alternative education programs, general educational development (GED) programs, and community college programs. Another commenter recommended that priority 5 focus on alignment between the traditional education system and alternative education programs for high school dropouts. Two commenters urged the Department to include adult education programs in this priority, stating that adult education programs play a key role in the P–20 route for some students, particularly English language learners.

Discussion: Priority 5 refers to K–12 schools, postsecondary institutions, workforce development organizations, and other State agencies and community partners, which would encompass the programs referenced by the commenters. We do not believe that the notice needs to include additional references to these programs or to other specific types of schools or programs. Therefore, we decline to make the changes requested by the commenters.

Changes: None.

Comment: Many commenters highlighted the importance of improving the transition from early childhood to K–12 programs. One commenter asked that States be allowed to focus on coordination between early childhood and elementary school exclusively and without penalty for excluding middle school, high school, and post-secondary education in their plans. One commenter recommended that the Department more explicitly identify the ways in which early childhood and higher education sectors should participate in States' reform strategies and provide guidance on how cross-system alignment will be evaluated in the peer review process. Two commenters recommended that SEAs work with State early childhood advisory councils to improve the transition from early childhood programs to K–12 programs.

Discussion: As discussed elsewhere, we are adding a new invitational priority 3 on improving early educational outcomes for high-need students who are young children, which includes a focus on improving transitions between preschool and kindergarten.

With regard to the comment asking whether States could focus on the transition between early childhood and elementary school exclusively without penalty for excluding middle and high school transitions, and the comment regarding how alignment will be evaluated in the peer review process, we note that States will be judged on the extent to which their plans set forth comprehensive and coherent reform agendas for improving student outcomes statewide (*see* criterion (A)(1)), and on the extent to which States have enlisted strong statewide support and commitment for their plans from a broad group of stakeholders, which may include IHEs and agencies providing early childhood education (*see* criterion (A)(2)(ii)). States that choose to address priority 5 should discuss how to coordinate all parts of their systems to create more seamless P–20 routes for students—both vertically, to ensure that students exiting one level of the education system are prepared for success in the next, and horizontally, to ensure that services across schools, State agencies and community partners are coordinated and aligned.

The ways in which early childhood and higher education programs participate in States' reform strategies

will vary from State to State depending on the needs and resources in each State. Therefore, we decline to include in priority 5 specific ways in which these sectors should participate in their State's reform plans, as requested by one commenter.

We agree that one way to improve transitions from early childhood programs to K–12 programs is for SEAs to work with State early childhood advisory councils. We are not including specific examples of processes the State may use to improve transitions across the P–20 system; we believe such decisions are best left to local decision-makers.

Changes: None.

Comment: Two commenters recommended adding a reference in this priority to middle school transitions (*i.e.,* elementary to middle school and middle to high school) because these transitions can be particularly challenging with the increased expectations for student performance and responsibility, often in environments that are far less personalized than elementary schools.

Discussion: We agree that transitions to and from middle school can be challenging. Ensuring smooth transitions from elementary to middle school and from middle school to high school would be important aspects of creating a seamless P–20 route for students. The fact that priority 5 does not specifically reference the transitions to and from middle school does not mean that State reform plans should not include efforts to improve these important transitions. We note that the parenthetical in priority 5 provides examples of critical transition points before and after K–12 and is not meant to exclude transition points within K–12 that States may address within their core Race to the Top reform plans.

Changes: None.

Comment: A few commenters requested that priority 5 include a requirement to coordinate early childhood programs that serve children from birth to age five. These commenters pointed to research documenting the importance of high quality education in the first three years of life.

Discussion: We agree that the Race to the Top program should recognize the importance of early learning programs in preparing children for success in school. Therefore, as noted elsewhere, we are adding priority 3 to focus on improving early educational outcomes for high-need students who are young children (pre-kindergarten through third grade). Because Race to the Top focuses its efforts primarily on States and LEAs, an early childhood educational focus starting in pre-kindergarten seems most applicable. The Department has other programs that will focus exclusively and comprehensively on children younger than pre-kindergarten age.

Changes: None.

Comment: One commenter recommended that States include private schools in developing their plans to create a more seamless P–20 route for students. The commenter noted that many students attend both public and private schools at various times in their educational careers.

Discussion: There is nothing that would preclude a State from including in its plan efforts to improve coordination with private schools. We note that nothing in the Race to the Top program requires a State that receives funds under Race to the Top to include private schools in the four reform areas. Because the Race to the Top program is directed to improving public K–12 education, we decline to include a reference to private schools in priority 5, which addresses a more seamless P–20 route for students.

Changes: None.

Comment: One commenter asked whether the focus of priority 5 is on developing a P–20 data system. Another commenter asked how the data elements in a P–20 system would differ from a P–16 system's required elements.

Discussion: Priority 5 focuses on improving all parts of the education system by coordinating within the educational system (*e.g.*, between early childhood programs, K–12 schools, postsecondary institutions) and between the educational system and other State agencies and community partners (*e.g.*, child welfare, juvenile justice, and criminal justice agencies). Priority 5 is not focused on P–20 data systems; that is the focus of priority 4, Expansion and Adaptation of Statewide Longitudinal Data Systems.

Under criterion (C)(1), States will be judged on the extent to which they have a statewide longitudinal data system that includes the America COMPETES Act elements. Beyond these 12 elements, the Department has not specified any additional elements that States must include in their statewide longitudinal data systems.

Changes: None.

Comment: One commenter recommended that States use longitudinal data to evaluate and improve the effectiveness of programs designed to facilitate vertical alignment in the education system. Two commenters recommended that the Department include an incentive in this priority for States and LEAs to learn from LEAs with outstanding records in data development and reporting in order to improve the vertical alignment of the State's education system.

Discussion: We agree that longitudinal data could be used to evaluate and improve the effectiveness of programs designed to improve transitions from one level of the education system to another. We also agree that States and LEAs should learn from each other on using data to improve the vertical alignment of educational systems. Priorities 3, 4, and 5 encourage States to undertake such practices. We note that States receiving Race to the Top funds, along with their LEAs and schools, are expected to identify and share promising practices, make work freely available within and across States, make data available in appropriate ways to stakeholders and researchers, and help all States focus on continuous improvement of student outcomes.

Changes: None.

Priority 6—Invitational Priority—School-Level Conditions for Reform, Innovation, and Learning (Proposed Priority 5).

General:

Comment: Numerous commenters expressed support for priority 6. While some commenters stated that it was appropriate for priority 6 to be an invitational priority, numerous other commenters recommended changing priority 6 to a competitive preference priority stating that the conditions listed for reform and innovation are critical to supporting school reform efforts. One commenter stated that it is important to give priority to school-level conditions for reform because reform is most evident when changes are implemented at the local level, where student learning can be directly and immediately influenced.

Several commenters urged the Department to make priority 6 a competitive preference priority in order to ensure that districts create the preconditions for dramatically improving student achievement. Other commenters stated that the flexibilities and autonomies listed in the priority are essential to school success and that it is highly unlikely that any State will turn around low-performing schools without these ingredients. Another commenter stated that LEA actions are fundamental to enabling schools to turn around and that if this priority was a competitive preference priority, it would motivate LEAs to undertake challenging reforms. Lastly, one commenter recommended that the priority be changed to an absolute priority.

Discussion: States may choose to address priority 6, which examines the

extent to which a State's participating LEAs are broadly creating the conditions for reform and innovation by providing schools with flexibilities and autonomies. All States, however, will be rewarded for flexibilities and autonomies that are provided to schools in the highest need situations—turning around persistently lowest-achieving schools—as part of criterion (E)(2). In addition, criterion (F)(2) will assess the extent to which States ensure successful conditions for high-performing charter schools and other innovative schools. Therefore, we do not believe it is necessary to change priority 6 to an absolute or competitive preference priority.

Changes: None.

Comment: A few commenters noted that priority 6 focuses on school-level conditions for reform and innovation but does not speak to the conditions that are necessary for student learning. The commenters recommended that the title and content of the priority be changed to also focus on creating the school-level conditions for learning. One commenter stated that school-level conditions for reform should be clearly defined in the notice to ensure that all of the comprehensive learning opportunities necessary for school success are in place.

Discussion: We agree with the commenters that priority 6 should emphasize reform and innovation in the service of learning, and thus are adding ''learning'' to the title of the priority. We also are clarifying, in the text of the priority, that the Secretary is interested in applications in which the State's participating LEAs create the conditions for reform and innovation, as well as the conditions for learning. We decline to provide an exhaustive list of school-level conditions for reform as requested by one commenter as such conditions will vary depending on the unique needs of schools and communities. Therefore, priority 6 only includes examples of flexibilities and autonomies that an LEA might provide to its schools in order to help create the conditions for reform, innovation, and learning. We also are making a few technical edits for clarity.

Changes: We have changed the title of priority 6 to ''School-Level Conditions for Reform, Innovation, and Learning.'' We have added the phrase ''seek to create the conditions for reform and innovation as well as the conditions for learning. * * *'' following ''The Secretary is particularly interested in applications in which the State's participating LEAs.''

Comment: One commenter stated that in order to meet priority 6, States should describe the ways in which their participating LEAs provide schools, in particular turnaround schools, with flexibilities and autonomies conducive to reform and innovation.

Discussion: Under criterion (E)(2), States must describe the ways in which they will support their LEAs to implement the flexibilities provided in the school intervention models (described in Appendix C) for their persistently lowest-achieving schools. Therefore, in addressing priority 6, a State should describe other flexibilities and autonomies that its LEAs currently provide, or plan to provide, to their schools in order to create the conditions for reform, innovation, and learning.

Changes: None.

Comment: One commenter recommended that priority 6 be changed to reach beyond LEA-school governance to include State-LEA flexibility and autonomy. The commenter stated that emphasis should be placed on demonstrating how changes in governance and rules affect school reform efforts and instructional innovations. The commenter further recommended that we add examples of flexibilities and autonomies conducive to reform and innovation such as coordinated planning between categorical programs and budgets, changing education delivery models to increase productivity, and more efficiently using existing learning time and resources.

A few commenters recommended that the Department provide additional regulatory waivers and flexibilities to improve the coordination of funds and create the conditions for systemic reforms and instructional innovations. One commenter stated that Federal funding and regulatory flexibility could have a significant effect on State and LEA reform efforts and suggested that funds be competitively awarded in return for a State meeting a number of key requirements.

Discussion: The Department is placing particular emphasis on these school-level flexibilities because their effectiveness has been shown in a number of educational settings and because they are related to efforts to turn around struggling schools, which is a priority of the ARRA. We are, however, open to State innovation around exploring further flexibilities with their LEAs and, to the extent that such flexibilities are in place, the State could describe them in response to criterion (F)(3), Demonstrating Other Significant Reform Conditions. We also note that under criterion (A)(2)(i)(d), a State will be evaluated based on its capacity to accomplish its plan and targets by coordinating, reallocating, or repurposing education funds from other Federal, State, and local sources where feasible. We, therefore, believe it is unnecessary to add to priority 6 the language regarding coordinated planning between categorical programs and budgets and changing delivery models suggested by the commenter.

In response to commenters who recommended that the Department provide additional regulatory waivers and flexibilities, we note that such waivers and flexibilities are often limited by statute. However, the Department fully supports efforts to coordinate the use of funds in order to make the most efficient and effective use of limited resources and will continue to consider States' requests for waivers that are permissible under current Federal statutes and regulations.

Changes: None.

Comment: A few commenters recommended that the list of flexibilities and autonomies conducive to reform and innovation include providing high-quality, engaging curricula and instruction that focus on real-world problem solving. The commenters also recommended that instruction be consistent with the principles of universal design for learning.

Discussion: Several Race to the Top selection criteria established in this final notice emphasize an approach to curriculum and instruction that is based on an evidence-driven cycle of continuous instructional improvement (*see* criteria (B)(3), (C)(3), and (D)(5)). Because this issue is addressed directly in the criteria, we do not believe it is necessary to reference specific principles used to design curricula or instruction (*i.e.*, universal design for learning).

Changes: None.

Comment: A few commenters requested that priority 6 clearly state that the flexibilities and autonomies provided to schools must not include waiving the program requirements under the IDEA.

Discussion: There is nothing in priority 6 to suggest that LEAs would be permitted to waive program requirements required under other Federal laws and regulations, including those required by the IDEA. Therefore, we believe it is unnecessary to add the language requested by the commenters.

Changes: None.

Comment: One commenter requested that the final notice provide examples of flexibilities and autonomies that LEAs could provide to schools to improve early learning. The commenter provided numerous examples, including

increasing the use of Title I funds for early learning programs and permitting the use of school facilities for early learning programs and family centers.

Discussion: Several of the flexibilities and autonomies included in priority 6 are applicable to early learning—for example, flexibility in selecting staff (paragraph (i)) and controlling the school's budget (paragraph (iii)). Therefore, we do not believe that examples specifically applicable to early learning are necessary. We note that, as discussed elsewhere in this notice, we are adding an invitational priority (Priority 3) focused on early learning. An applicant who chooses to address the early childhood priority could choose to include flexibilities, such as those recommended by the commenter, in its application.

Changes: None.

Comment: Numerous commenters recommended that the list of flexibilities and autonomies conducive to reform and innovation include charter schools and charter school autonomies. Several of these commenters recommended that States be rewarded for their past and proposed efforts to support charter school flexibilities and, conversely, that States should lose points if they do not provide adequate school-level autonomy or are implementing efforts to restrict charter school flexibility. One commenter suggested that we clarify that flexibilities and autonomies conducive to reform and innovation do not include policies that would exempt charter schools or other non-traditional public schools from open enrollment mandates or from requirements that they be subject to and rated by the same academic achievement standards as traditional public schools.

Discussion: As part of its application, a State is already asked to address several criteria to ensure that it is creating the conditions for high-quality charter schools. (*See* criterion (F)(2)). Therefore, we decline to include additional criteria related to charter schools in priority 6. We also decline to add language specifying the flexibilities and autonomies that LEAs may provide to charter schools. State and local governments possess the authority to authorize charter schools and as such, requirements for charter school admissions are primarily State and local matters.

Changes: None.

Selecting Staff (Paragraph (i))

Comment: One commenter recommended that paragraph (i) of this priority specifically refer to schools having the flexibility to select ''leadership team members.'' Another commenter stated that school principals must have the authority to replace consistently low-performing educators and suggested changing paragraph (i) to clarify that principals should be given the authority to select and replace staff.

Discussion: We decline to add ''leadership team members'' to paragraph (i) in priority 6 because we are unsure to whom the term refers. With regard to the suggestion that we refer specifically to principals selecting and replacing staff, we note that there may be other school leaders or groups of school staff responsible for hiring staff (*e.g.*, department chairs; a panel of teachers, parents, and the principal; an executive in a private management organization). Therefore, we decline to make the change proposed by the commenters.

Changes: None.

Increased Learning Time (Paragraph (ii))

Comment: Many commenters expressed support for reform efforts that put in place new structures and formats for the school day or year in order to expand learning time. Commenters provided many examples of activities that should be conducted during expanded learning time including extra-curricular pursuits, experiential learning, enrichment activities, family and community engagement, recreational activities, and activities that support students' transition between grade levels. Other commenters focused on the use of expanded learning time for academic supports, and as a strategy to improve student achievement, close achievement gaps, and support struggling schools. One commenter stated that priority 6 should include other flexibilities such as expanding opportunities for youth that include, but are not limited to, a longer school day. Several commenters recommended clarifying that expanded learning time includes after-school and summer school programs. Another commenter strongly recommended that the final notice clarify that expanded learning time includes strategies that go beyond those that mirror the instruction provided to students during the school day. Other commenters stated that it is important for the Department to acknowledge that expanded learning time includes increasing educators' learning time for activities such as professional development that is collaborative, on-site, and tailored to the needs of school staff and leadership, and to allow teachers to plan and learn together.

Discussion: We appreciate the numerous comments we received on increasing learning time. We acknowledge that the term, ''expanded learning time'' is typically used to refer to programs that redesign the school day, week, and year to provide additional hours of learning time, and that ''extended learning time'' is typically used to describe before school, after school, and summer programs. We, therefore, are defining a new term, *increased learning time*, to indicate the need for schools to provide additional time for academic work to improve the proficiency of students in core academic subjects, as well as for additional subjects and enrichment activities that can contribute to a well-rounded education. We agree with commenters that teachers could also use the additional time to collaborate, plan, and engage in professional development.

Changes: We have replaced ''expanded learning time'' with ''increased learning time.'' We also have added a definition of *increased learning time* in the definitions section of this notice to read as follows: ''Increased learning time means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects, including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.'' [2]

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

Comment: Many commenters recommended that priority 6 focus on removing barriers to innovative approaches to serving students in after-school and summer school programs. The commenters stated that schools should be encouraged to allow the use of school buildings for summer programs. Other commenters recommended requiring LEAs to coordinate funding streams for after-school and summer school programs, such as those tied to Title I, 21st Century Community Learning Centers, and other Federal, State, and local funds in order to maximize impact, improve efficiencies, and provide comprehensive services.

Discussion: Priority 6 focuses on creating the conditions for reform, innovation, and learning at the school level and includes a list of the types of flexibility and autonomy that LEAs may provide to schools; the list provides examples and is not exhaustive. We do not believe it is necessary to include the very specific flexibility of removing barriers to using school buildings for after-school and summer school programs. Likewise, flexibilities that permit coordinating funding streams for after-school and summer school programs are already covered in paragraph (iii) of the priority, which references placing budgets under the school's control.

Changes: None.

Comment: One commenter recommended that LEAs be encouraged to form partnerships with providers of out-of-school-time programming that have proven outcomes and that can bring innovative approaches to support true reform. Another commenter recommended that States ensure that nonprofit partners have the opportunity to apply for extended learning funds in partnership with one or more struggling schools in order to maximize competition and increase the quality of programs provided. One commenter recommended requiring States to ensure that expanded learning time models do not limit staffing to existing teachers. The commenter stated that flexibility should be provided to engage educators outside of the school such as tutors, mentors, individuals in teaching fellowship programs and alternative certification programs, and volunteers from the community, business, and industry.

Discussion: Developing local partnerships can be an effective strategy to move local school reform agendas forward, particularly in providing comprehensive services to high-need students. However, we believe it would be inappropriate to require States to form partnerships with nonprofit organizations or individuals outside of the school; such decisions are best left to local decision-makers who understand the unique needs of their schools and the resources available in their communities. We are changing the language in paragraph (v) regarding comprehensive services to high-need students to include examples of how such services might be provided to high-need students.

Changes: The parenthetical in paragraph (v) now reads, ''(*e.g.*, by mentors and other caring adults; through local partnerships with community-based organizations, nonprofit organizations, and other providers).''

Comment: One commenter supported expanded learning time but stated that educators should not be forced to work longer hours for the same compensation and that adjustments to work schedules should be determined locally between the district and educators and bargained where collective bargaining agreements exist. A few commenters stated that collaboration among labor, management, and parents is critical for expanded learning time models to succeed.

Discussion: Decisions about work hours and compensation are determined at the local level. As with all educational reform efforts, we believe that collaboration among stakeholders is critical to success.

Changes: None.

Comment: One commenter recommended that the final notice provide a clear picture of how strategies for expanded learning time and comprehensive services for high-need students fit together as part of a broader approach to reform and recommended that language be added to encourage applications that demonstrate how States and LEAs will align their strategies to produce results.

Discussion: It will be up to each applicant to describe how its plan for reform is comprehensive and coherent and will increase student achievement, reduce achievement gaps, and increase graduation rates. Absolute priority 1 specifically requires that States comprehensively address each of the four education reform areas specified in the ARRA and demonstrate that the State and its participating LEAs are taking a systemic approach to education reform. Applicants who choose to address priority 6 should address how their approach to meeting this priority fits into the State's overall reform efforts.

Changes: None.

Budgets (Paragraph (iii))

Comment: One commenter recommended revising paragraph (iii) regarding placing budgets under the schools' control to ensure that teachers and parents are involved in making budget decisions.

Discussion: The process that a school or LEA uses to establish its budget is a local matter. Therefore, we decline to add the language requested by the commenter.

Changes: None.

Credit Based on Student Performance (Paragraph (iv))

Comment: Several commenters expressed support for awarding credit to students based on student performance instead of instructional time and providing multiple pathways to a graduation with a regular high school diploma. One commenter recommended that funds be used to encourage State policies that allow middle or high school students to receive high school graduation credit or to meet a subject area requirement earlier than typically would be expected. The commenters advocated for options that create flexibility for students without sacrificing rigorous learning and cited school-work partnerships, diploma-plus programs, and dual enrollment (high school-community college) programs as examples of innovative approaches to creating multiple options that help students graduate from high school and pursue additional educational goals.

Discussion: We believe that the commenters' recommendations are all addressed in paragraph (iv), which provides for ''awarding credit to students based on student performance instead of instructional time.'' We, therefore, do not see a need to add the commenter's recommended language in priority 6.

Changes: None.

Comprehensive Services (Paragraph (v))

Comment: A few commenters noted that instruction and services for high-need students cannot be provided by traditional education systems alone and recommended adding language to the priority to emphasize the importance of community-based organizations and nonprofit organizations in providing comprehensive services to high-need students. One commenter stated that the final notice should clarify that the goal of State and local educational agencies should be to build a comprehensive picture of children's progress—academically, socially, and in terms of health and well-being. One commenter stated that in order to provide

comprehensive services to high-need students, States must create a safety net of wrap-around services designed to increase student success and focus on both community- and district-level conditions.

Another commenter suggested using the term ''comprehensive supports'' rather than ''comprehensive services,'' stating that ''comprehensive supports'' includes services and has more salience with educators. Another commenter recommended clarifying that comprehensive services for high-need students address the health, safety, social, emotional, behavioral, physical, and educational needs of a child.

Discussion: We agree with the commenters that high-need students often require a broad array of services that are beyond the capacity of the school itself to provide, and that community-based organizations and nonprofit organizations play an important role in meeting these needs. As noted in an earlier comment regarding the role of community-based organizations and nonprofit organizations in schools that provide increased learning time, we are changing paragraph (v) to reference community-based organizations and nonprofit organizations.

With regard to comments concerning the need for comprehensive services and creating a safety net of wrap-around services with involvement of both communities and districts, we note that priority 5 focuses on the need to coordinate services across schools, State agencies, and community partners in order to ensure that high-need students have access to the broad array of opportunities and services they need (*see* the discussion on priority 5).

We decline to change the term ''comprehensive services'' to ''comprehensive supports,'' as requested by one commenter; we do not agree that the two terms are substantively different or that one term has more salience for educators than the other. We also decline to specify the array of services included in ''comprehensive services'' because, by doing so, we could inadvertently restrict the range of services that a State may determine are necessary to serve high-need students.

Changes: None.

II. Requirements

Eligibility Requirements

Eligibility Requirement (a): State Fiscal Stabilization Fund (Stabilization) Phase 1 and 2:

Comment: Many commenters expressed support for the eligibility requirement that States have their State Fiscal Stabilization Fund program Phase 1 and Phase 2 applications approved in order to be eligible for a Race to the Top award. Other commenters expressed concern that States may have difficulty obtaining approval of their Stabilization Phase 2 applications in time to submit a Race to the Top application. One commenter expressed concern that the Department's approval of Stabilization Phase 2 applications may occur too late for a State to apply during Phase 1 of the Race to the Top competition. One commenter specifically noted the difficulty in satisfying the data requirements for Stabilization Phase 2 in time to apply for the Race to the Top competition. Some commenters requested information pertaining to the timing of Stabilization Phase 2 applications and the Race to the Top competition.

Discussion: The eligibility requirement pertaining to the approval of Stabilization applications is being changed to require only that the State have approved Stabilization Phase 1 and Phase 2 applications by the time the State is awarded a Race to the Top grant. Thus, a State's Stabilization Phase 2 application will not need to be approved at the time it prepares or submits its Race to the Top application.

Changes: Eligibility requirement (a) has been changed to read: ''A State must meet the following requirements in order to be eligible to receive funds under this program. (a) The State's applications for funding under Phase 1 and Phase 2 of the State Fiscal Stabilization Fund program must be approved by the Department prior to the State being awarded a Race to the Top grant.''

Eligibility Requirement (b): Linking Student Data to Teachers and Principals:

Comment: Numerous commenters expressed their support for evaluating teachers and principals based on student achievement or growth. These commenters suggested that the final notice should require States to use student growth data in teacher and principal evaluations. Several commenters offered their support for the requirement that a State not have any barriers to linking student achievement or student growth data to teacher and principal evaluations. These commenters specifically noted that teachers should be judged by their effectiveness, not by their credentials or years of service.

Several commenters, however, claimed that there is a lack of research or evidence demonstrating that the use of such data for teacher and principal evaluations has any positive impact on teacher, principal, or student performance. A few commenters disagreed with the Department's reference to research indicating that teacher qualifications, including certification status and years of experience, are not accurately predictive of teacher quality. Other commenters identified research explaining the difficulty in disaggregating student achievement data to determine a teacher's effect from other variables. One commenter suggested that States should pass laws requiring a peer reviewed validation of any value-added methodology before including student achievement data as part of any evaluation or compensation mechanism and further argued that such laws should not constitute a State barrier under the eligibility requirements.

Discussion: As indicated in the NPP, we believe that research clearly shows that teacher and principal quality are critical contributors to student learning. The Department believes that student achievement and student growth data are meaningful measures of teacher and principal effectiveness, and therefore, should be considered as a part of a rigorous, transparent and fair evaluation system. Consequently, legal barriers to linking data about student achievement or student growth to teachers and principals for evaluation purposes effectively prevents schools from having the core information systems they need to serve students well. For these reasons, we decline to make substantive changes to eligibility requirement (b).

Changes: None.

Comment: Several commenters asked whether teacher or principal contracts or local collective bargaining agreements that prohibit the use of student achievement data for teacher and principal evaluations would constitute a State barrier, thus making a State ineligible for the Race to the Top competition. One commenter noted that one specific State lacks control over teacher and principal evaluation systems.

Discussion: The Department has revised eligibility requirement (b) to clarify that the State must not have any legal, statutory, or regulatory barriers at the State level to linking student achievement or student growth data to teachers and principals for purposes of evaluation. Therefore, a State would be eligible to apply for a Race to the Top grant even if a teacher or principal contract or collective bargaining agreement at the local level prohibited the use of student achievement or student growth data for evaluation purposes.

Changes: Eligibility requirement (b) has been changed to read: ''At the time the State submits its application, there must not be any legal, statutory, or regulatory barriers at the State level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation.''

Comment: One commenter suggested limiting the eligibility requirements pertaining to linking student achievement data to teacher and principal evaluations to exclude educators working in early learning or child care programs. This commenter claimed that teacher and principal evaluation systems would not be applicable to a State's proposal emphasizing early learning initiatives.

Discussion: The Department believes that student growth data are strong measures of teacher effectiveness across the spectrum from preschool to grade 12. While traditional student achievement and student growth data may not be routinely collected in early learning settings, relevant student achievement and student growth data are available in other forms. Child outcome data should not be the only measures of teacher effectiveness in early learning settings, but can provide useful information to improve the effectiveness of early childhood educators and administrators when coupled with other quantitative and qualitative indicators.

Changes: None.

Comment: One commenter recommended that the notice clarify what level of change to a State law regarding linking data on student achievement or student growth to teachers and principals would be necessary in order to be eligible for Race to the Top funds. For example, one commenter asked if legislation to remove a barrier to linking student achievement data to teachers and principals would need to be enacted prior to applying for Race to the Top funds or whether the introduction of such legislation would be adequate to the meet eligibility requirements. Another commenter asked whether a State would need to enact legislation adopting its plan in its State education code to be eligible to apply for Race to the Top funds.

Discussion: Eligibility requirement (b) contemplates only existing laws; a State will not be able to establish its eligibility based on intent to change those laws. There is no requirement in the ARRA or in this notice requiring States to enact legislation adopting their Race to the Top plans.

Changes: None.

Comment: Some commenters suggested that States should be eligible for the Race to the Top competition even if barriers exist to linking student achievement or student growth data to teachers and principals for evaluation purposes, so long as the State's reform plan only includes LEAs and charter schools that allow such linkages. One commenter argued that the eligibility requirement is unfair because LEAs without such prohibitions would not receive Race to the Top funds if they were situated in a State with such barriers.

Discussion: Under eligibility requirement (b), States are required to demonstrate that they do not have any legal, statutory, or regulatory barriers at the State level to linking student achievement or student growth data to teachers and principals for the purpose of evaluations. States that have such barriers are not eligible for Race to the Top awards. Race to the Top is meant to provide an incentive for statewide reform and improvements, and is a competitive grant program encouraging States to be bold and innovative. While individual LEAs and charter schools in States with barriers may be ready and eager to use student growth data to identify and improve teacher and principal effectiveness, Race to the Top focuses on the extent to which the State's conditions and plans lead to statewide impact.

Changes: None.

Comment: Numerous commenters argued that one specific State's law, which prohibits linking teacher and student achievement data, should not disqualify it from applying for the Race to the Top competition. Some of these commenters argued that the State's law does not prohibit data linking between students and teachers at the district level where personnel decisions are made, and therefore should not make the State ineligible for Race to the Top funds. One commenter, however, specifically stated their support for the data linkage eligibility requirement with respect to the State.

Another commenter argued that an existing statute regulating the use of student achievement data in tenure determinations in another State should not make the State ineligible to apply for the Race to the Top competition. The commenter argued that the statute does not prohibit use of student test data in annual teacher performance reviews or for tenure consideration.

Discussion: As stated earlier, the Department believes that student growth should be one significant measure of several when evaluating teacher and principal effectiveness. State level data linkage barriers unduly restrict schools and LEAs from using student achievement or student growth data to identify and improve teacher and principal effectiveness. The Department also believes that schools and LEAs should have the ability to choose to use student achievement and student growth data in this manner. For this reason, the Department declines to exempt any one State from this requirement and encourages States to lift legal, statutory, and regulatory barriers that prohibit these linkages.

The Department notes that this notice requires the State's Attorney General to certify that the State has no legal, statutory, or regulatory barriers at the State level to linking student achievement or student growth data to teachers and principals for the purpose of evaluations.

Changes: None.

Eligibility Overall

Comment: Multiple commenters suggested adding an eligibility requirement to limit eligibility for Race to the Top funds to States that meet the requirements in their FY 2007 Annual Performance Report under the IDEA. Those commenters noted that States unable to meet basic IDEA requirements should not be eligible to apply for Race to the Top funds.

Discussion: Race to the Top is a competitive grant program intended to improve educational outcomes for all students. The Department already has a mechanism to monitor States' progress, as reported in their Annual Performance Reports, in meeting the targets in their State Performance Plan under the IDEA. Therefore, we decline to include the requirement suggested by the commenter as an eligibility requirement in the Race to the Top competition.

Changes: None.

Comment: One commenter suggested the Department consider the number of outstanding audits and audit exceptions against a State for any Federal education program as part of the Race to the Top program eligibility determination. One commenter suggested that if awards were given to States with audit exceptions, conditions should be imposed on the award of funds, including onsite monitoring.

Discussion: The Department has taken extraordinary measures to ensure accountability in the use of all ARRA funds, including the Race to the Top program, so that all dollars are used wisely and accounted for in a transparent manner. Indeed, as explained in the Reporting section of this final notice and the notice inviting

applications, successful applicants must comply with the ARRA annual reporting requirements in section 14008 of the ARRA and quarterly reporting requirements in section 1512(c) of the ARRA, which are designed to ensure thorough and public oversight of the expenditure of ARRA funds. The Department has established a Recovery Act Web site and hotline for members of the public to report suspected misuse of funds. Additionally, the Department has other mechanisms and protections in place to enforce and monitor progress and resolution of any prior audit findings from other programs. Accordingly, we do not believe it is necessary to add requirements pertaining to States that have audit exceptions.

Changes: None.

Application Requirements

Reorganization of the Application Requirements

Comment: None.

Discussion: In order to streamline the application requirements and the criteria and reduce burden for applicants, we are removing from this final notice proposed application requirements that were duplicative of the criteria. The remaining application requirements are being renumbered, accordingly. For instance, proposed application requirement (c) concerning the level of State funding for education is being removed from the final application requirements but is still being retained in criterion (F)(1)(i); and proposed application requirement (d) concerning support from stakeholders is being removed but is still being retained in criterion (A)(2)(ii). In addition, we are revising the application requirements to make minor editorial changes, providing internal cross references to relevant portions of the notice, and reorganizing application requirement (e) to better clarify the components of this requirement.

Changes: We have removed proposed application requirements (c) and (d). We have reordered the application requirements accordingly. We have made minor editorial changes to provide better clarification to this section, have clarified that the Governor must sign the assurances in Section IV of the application, and have reorganized application requirement (e).

Comment: Some commenters recommended providing benchmarks or statutory tests to help provide consistency in how State Attorneys General determine and certify their State's eligibility for Race to the Top. Some commenters suggested that the Department provide a ''test'' for Attorneys General to apply to their State law to determine eligibility.

Discussion: Under application requirement (f) (proposed application requirement (h)), the State's Attorney General is asked to certify that the State has no legal, statutory or regulatory barriers at the State level with respect to eligibility requirement (b). We interpret this to mean State constitutions, case law, statutes, or regulations. Interpretation of a State's laws falls uniquely within the expertise of the State Attorney General and therefore, we leave this task to the Attorney General. The Department notes that the certification requirement does not seek a formal legal opinion. Instead, the Department provides forms in the application for Attorneys General to sign certifying that (a) the description of, and statements and conclusions in the application concerning State law, statute, and regulation in its application are complete, accurate, and constitute a reasonable interpretation of State law, statute and regulation; and (b) that the State does not have any legal, statutory, or regulatory barriers at the State level to linking data on student achievement or student growth to teachers and principals for the purpose of teacher and principal evaluations. The certification of the Attorney General addresses this requirement. The applicant may provide explanatory information, if necessary.

In addition, we note that we are changing application requirement (f) to be consistent with the changes to eligibility requirement (b), as discussed earlier, and separating application requirement (f) into two subparagraphs.

Changes: Application requirement (f) has been made consistent with eligibility requirement (b), as discussed earlier, and separated into two subparagraphs.

High-Need LEAs

Comment: Many commenters had difficulty interpreting proposed application requirement (e)(2) that would have required States to explain in their budget plans how it will use Race to the Top funds to give priority to high-need LEAs over and above the participating LEA share.

Discussion: First, the Department notes that it inadvertently neglected to use the statutory definition of high-need LEA in the NPP, as found in section 14013(2) of the ARRA. Accordingly, and as discussed in this notice, we are changing the definition of *high-need LEA* to reflect the statutory definition: ''[an LEA] that serves not fewer than 10,000 children from families with incomes below the poverty line; or for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line.''

Consistent with section 14006(c) of the ARRA, States must subgrant 50 percent of their grant awards to participating LEAs, based on the LEAs' relative share of Title I, Part A allocations in the most recent year. We have clarified in application requirement (c)(2) that, because all Race to the Top grants will be made in 2010, relative shares will be based on total funding received in FY 2009, including both the regular Title I, Part A appropriation and the amount made available by the ARRA.

Consistent with section 14005(c)(4) of the ARRA, application requirement (c)(2) requires a State to include in its application a budget detailing how the State will use Race to the Top funds to ''give priority to high-need LEAs'' beyond the base amount provided to all participating LEAs. States have flexibility to determine the meaning of ''give priority to,'' which could include, for example, additional funding, more comprehensive technical assistance, coordination of State or local social services for students in such LEAs, expanded professional development, and larger incentives for teachers and principals who agree to work in these LEAs.

Changes: Application requirement (c)(2) has been revised to include: ''(**Note:** Because all Race to the Top grants will be made in 2010, relative shares will be based on total funding received in FY 2009, including both the regular Title I, Part A appropriation and the amount made available by the ARRA).''

Reporting Requirements

Comment: Several commenters raised questions concerning accountability for Race to the Top funds. One commenter praised the proposed requirements but wanted greater detail on how we would ensure ''successful on-the-ground implementation'' of the Race to the Top program. One strategy suggested by the commenter was to withhold funds from States that do not meet the commitments they make in their Race to the Top applications. Other commenters recommended that Race to the Top funds be conditioned on meeting performance goals as reflected in the annual reports, or that the Department withhold funds from those States not meeting their commitments. Two commenters requested flexibility for States to revise their State plans to encourage continuous improvement.

Discussion: The Reporting Requirements section in this final notice explains that the Department plans to both support and carefully monitor State and LEA progress in meeting their goals, timelines, budgets, and annual performance targets. If we determine that a State is not meeting one or more of the requirements for this program, the Department may take a range of actions to remedy the situation, including placing the State in high-risk status, putting the State on reimbursement payment status, or delaying or withholding funds. The Department also recognizes that States may wish to, or need to, revise their Race to the Top plans occasionally to take into account changing circumstances; such revisions will be subject to approval by the Secretary. The Department recognizes that many of the accountability requirements of the Race to the Top program differ from those of the ESEA, and that winning States will be adding a new layer of goal-setting, performance measurement, and data collection to their existing accountability systems. Finally, to provide greater clarity and completeness to the Reporting Requirements section, we are including the reporting requirements contained in sections 1512(c) and 14008 of the ARRA.

Changes: We have added the reporting requirements contained in sections 1512(c) and 14008 of the ARRA.

Comment: One commenter argued that the Department may not use written performance agreements or cooperative agreements to monitor a State's progress because, they claimed, ARRA only allows grants monitoring. Another commenter stated that the Department should be a full participant in the Race to the Top program and, therefore, that Race to the Top awards should be cooperative agreements, rather than grants.

Discussion: The Department intends to support States and LEAs through technical assistance, evaluations, and other mechanisms to facilitate them in meeting their goals, timelines, budgets, and annual performance targets. Contrary to the assertion by one commenter, the Department has the authority under the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. Chapter 63) to use written performance agreements or cooperative agreements to monitor Race to the Top grantee performance. As stated in the NPP and reiterated in this notice, the Department may require grantees to enter into a written performance or cooperative agreement with the Department as a condition of receiving the grant; a final determination will be made at the time of grant awards. We do not believe it is necessary to arbitrarily require these agreements for all grantees because the determination whether to use a cooperative agreement as the award instrument is based on the nature of the relationship and the activities to be performed by the grantee, and is therefore highly case specific.

Changes: None.

Program Requirements

Evaluation

Comment: In response to the NPP's request for advice on the best way to conduct an evaluation of the Race to the Top program, many commenters recommended that States conduct their own Race to the Top evaluations. These commenters believed that the likely breadth of variation in Race to the Top plans would make it difficult to conduct a national evaluation, and that State-level evaluations would provide the kind of detailed feedback needed to support continuous improvement. However, another commenter asserted that a relatively small number of States were expected to receive a Race to the Top award and, according to the commenter, that a national evaluation is a far more efficient method than using Race to the Top funds to pay for individual State-led evaluations. Another commenter emphasized the importance of a national evaluation of the Race to the Top program using State data. A few commenters recommended that we carry out both national and State-level evaluations of the Race to the Top program.

Other commenters requested information on funding for Race to the Top evaluations, and two commenters recommended that up to 10 percent of Race to the Top awards be available to support those evaluations. One commenter expressed concern that the reporting requirements were focused on outcomes only, and did not include a description of the processes used to achieve those outcomes. Finally, four commenters suggested that a national evaluation should focus on identifying promising or best practices, while two commenters recommended the inclusion of ''process metrics'' to ensure that best practices can be fully documented to facilitate dissemination and adoption by others.

Discussion: The Department appreciates this advice on how to structure an evaluation plan for the Race to the Top program. As described later in this notice, the Institute of Education Sciences (IES) will conduct a series of national evaluations of Race to the Top State grantees. The Department's goal for these evaluations is to ensure that its studies not only assess program impacts but also provide valuable information to State and local educators to help inform and improve their practices. We are not requiring through this notice that Race to the Top grantee States conduct independent evaluations. However, they are free to propose, within their applications, to use funds from Race to the Top to support independent evaluations. A full explanation of the Race to the Top evaluation plan is included in the Program Requirements section of this notice and the notice inviting applications.

Changes: We have revised the Program Requirements section to reflect the evaluation requirements for all States that win a Race to the Top grant. Specifically, this notice has been revised to require State grantees to participate in a series of national evaluations that will be conducted by IES. This notice has been revised to reflect that these evaluations will involve components described further in this notice, including surveys, case studies, and evaluation of outcomes. We have further clarified that States have the option of conducting additional evaluations using Race to the Top funds or other funds. We have also revised this notice to reflect that State grantees, LEAs, and schools are expected to identify and share promising practices and make data available to help all States focus on continuous improvement.

Participating LEA Scope of Work

Comment: None.

Discussion: The Program Requirement concerning Participating LEA Scope of Work is addressed in the discussion for Section A, State Success Factors.

Change: The Program Requirement section is revised to include a requirement on Participating LEA Scope of Work.

Making Work Available

Comment: Two commenters suggested that the Department require that any new educational materials developed by Race to the Top State grantees be made available as open educational resources. One of these recommended that all outputs be open source and royalty-free. Several other commenters expressed concern about copyrighted intellectual property, proprietary systems, and the rights of contractors or partners, and that a requirement to share all outputs would preclude States from entering into contracts or licensing agreements or would conflict with agreements already in place. A commenter noted that one

specific State relies on subscriptions to copyrighted services for data warehousing and would have to build new systems to share data tools freely with the public. Two commenters suggested using the exclusion in the Statewide Longitudinal Data Systems grant program to protect intellectual property and proprietary products in Race to the Top.

Discussion: We understand and agree with the concerns about proprietary information in the context of the proposed requirement that States and LEAs make available materials developed with Race to the Top funds. We are revising the Program Requirements section entitled *Making Work Available* to provide that such materials must be available ''unless otherwise protected by law or agreement as proprietary information.'' We also have clarified that this agreement applies to work developed under this grant.

Changes: The *Making Work Available* requirement has been revised to read as follows: ''Unless otherwise protected by law or agreement as proprietary information, the State and its subgrantees must make any work (*e.g.*, materials, tools, processes, systems) developed under its grant freely available to others, including but not limited to by posting the work on a Web site identified or sponsored by the Department.''

State Summative Assessments

Comment: None.

Discussion: The Program Requirement concerning State summative assessments is addressed in the discussion for Section B, Standards and Assessments.

Changes: The Program Requirement Section is revised to include a program requirement on State summative assessments.

Technical Assistance

Comment: One commenter expressed support for the requirement that States participate in the Department's technical assistance activities. This commenter also suggested that technical assistance be provided by the federally supported research and development infrastructure, such as the regional labs. Another commenter argued that because successful implementation may be difficult, the Department should devote more resources and personnel to providing clear and fair technical assistance. One commenter recommended that the Department provide States with funds to cover the estimated costs of participating in technical assistance.

Discussion: The Department intends to conduct extensive technical assistance activities related to Race to the Top grants and will utilize to the extent feasible all available resources, including federally supported research centers and regional laboratories, to support those activities. In addition, we will work to minimize the cost of this technical assistance to participants.

Changes: None.

Using Subgroups Under NAEP and the ESEA

Comment: None.

Discussion: The application requirement concerning use of subgroups under NAEP and the ESEA for reporting achievement gains and for setting future targets is addressed in the discussion for Section A, State Success Factors.

Changes: We have added new paragraph (g) in the application requirements that explains the subgroup data that a State must provide in various parts of the application.

A. State Success Factors

Definitions: college enrollment, involved LEAs, participating LEAs.

Comments regarding the preceding definitions are addressed, as appropriate, below.

New Selection Criterion (A)(1)(i)

Comment: None.

Discussion: As noted elsewhere, we are adding a new section, ''State Success Factors,'' to the beginning of the Selection Criteria section in order to provide an opportunity for States to begin their Race to the Top proposals with a clear statement of their comprehensive and coherent statewide reform agendas. We are adding criterion (A)(1)(i) which will be used to assess the extent to which a State is successful in articulating the State's reform agenda.

Changes: Criterion (A)(1) begins: ''*Articulating the State's education reform agenda and LEAs' participation in it:* The extent to which—(i) The State has set forth a comprehensive and coherent reform agenda that clearly articulates its goals for implementing reforms in the four education areas described in the ARRA and improving student outcomes statewide, establishes a clear and credible path to achieving these goals, and is consistent with the specific reform plans that the State has proposed throughout its application.''

Selection Criteria (A)(1)(ii) and (iii): Participating LEAs (proposed criteria (E)(3)(iv) and (E)(4)):

Note: A number of comments common to criteria (A)(1)(iii) and (A)(3)(ii) are addressed in the discussion of (A)(3)(ii) later in this notice.

Comment: Many commenters requested clarification regarding funding for LEAs under the Race to the Top program, State discretion to select participating LEAs, and whether LEAs may decline Race to the Top funding. Many commenters questioned whether State applications may exclude LEAs that are not committed to part or all of a State's Race to the Top plan. One commenter recommended giving States complete control over how Race to the Top funds are spent by participating LEAs, claiming that the State, not the LEA, will be held accountable for meeting Race to the Top goals and targets. Other commenters suggested that Race to the Top funds should be awarded only to LEAs that sign an agreement or otherwise fully agree to implement its State's Race to the Top plans. One commenter asked whether LEAs receiving a share of the 50 percent of Race to the Top funds distributed on the basis of the Title I, Part A formula under the ESEA are required to participate in the Race to the Top program. Several commenters asked if LEAs would be subject to Race to the Top requirements even if they declined to participate.

Discussion: In response to these comments, and because LEAs are ultimately responsible for implementing many of the items in a State's Race to the Top plan, we have made a number of changes to provide great clarity on how LEAs can be involved in a State's plan. First, we are providing that LEAs can be included in States' Race to the Top projects at one of two levels: as ''participating LEAs'' or as ''involved LEAs.''

Participating LEAs, as defined in this notice, means LEAs that choose to work with the State to implement all or significant portions of the State's Race to the Top plan, as specified in each LEA's agreement with the State. Each participating LEA that receives funding under Title I, Part A will receive a share of the 50 percent of a State's grant award that the State must subgrant to LEAs, based on the LEA's relative share of Title I, Part A allocations in the most recent year, in accordance with section 14006(c) of the ARRA. Any participating LEA that does not receive funding under Title I, Part A (as well as one that does) may receive funding from the State's other 50 percent of the grant award, in accordance with the State's plan.

States do not have the discretion to select participating LEAs; instead, each LEA will make the decision to sign on to the State's plan as a participating

LEA. All LEAs that agree to work with the State, and that sign valid agreements stating their commitment to implement all or significant portions of the State's plan (as defined by the State) must be included in the State's plan. States do have the flexibility to develop detailed reform plans in which LEAs must choose whether to participate. States also have the authority to define the ''significant portions'' of their Race to the Top plans that LEAs must agree to implement in order to qualify as participating LEAs. As described earlier, States that receive a Race to the Top grant must use at least 50 percent of the award to provide subgrants to their participating LEAs based on their relative shares of funding under Part A of Title I of the ESEA for the most recent year. Because all Race to the Top grants will be made in 2010, relative shares will be based on total funding received in FY 2009, including both the regular Title I, Part A appropriation and the amount made available by ARRA. The remaining funds will be available to the State for State-level activities and for disbursement to participating LEAs (regardless of their Title I eligibility), involved LEAs, or other entities, consistent with the State's plan. A State has no obligation to provide Race to the Top funds, benefits, or supports to non-participating LEAs.

Participating LEAs must in turn use their funding in a manner that is consistent with the State's plan and its MOU or other binding agreement with the State. States may establish more detailed rules on uses of funds provided they are consistent with the ARRA, the terms of the grant award, and the Department's applicable administrative regulations. Although participating LEAs will receive subgrants from the State as described earlier, Race to the Top funds are not governed by the Title I restrictions on the uses of funds.

As described earlier, participating LEAs agree to implement all or a significant portion of State's Race to the Top plans. However, other LEAs may choose to work with the State to implement those specific portions of the State's plan that require statewide or nearly statewide implementation, such as transitioning to a common set of K–12 standards. We have defined these LEAs in this notice as *involved LEAs.* As defined, involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application.

In general, involved LEAs are not included in, and are not subject to, the requirements of a State's Race to the Top plan.

It is important to note that this notice does not require LEAs to participate in a State's plan (whether as participating or as involved LEAs) or give States the authority to impose such a requirement. Rather, through the definitions of *participating LEA* and *involved LEA,* we are setting the parameters for what LEAs must do to be eligible for certain funding streams. In addition, through absolute priority 1, the Department is specifying that States will only be awarded grants if they demonstrate sufficient LEA participation and commitment to successfully implement and achieve the goals of their plans; and through criteria (A)(1)(ii) and (A)(1)(iii), this notice sets forth the terms by which reviewers will award points to each State based on the participation and commitment of their LEAs.

Changes: We have added two new definitions to this notice. The definition of *participating LEAs* clarifies that participating LEAs choose to work with the State to implement all or significant portions of the State's Race to the Top plan, as specified in each LEA's agreement with the State. Each participating LEA that receives funding under Title I, Part A will receive a share of the 50 percent of a State's grant award that the State must subgrant to LEAs, based on the LEA's relative share of Title I, Part A allocations in the most recent year, in accordance with section 14006(c) of the ARRA. Any participating LEA that does not receive funding under Title I, Part A (as well as one that does) may receive funding from the State's other 50 percent of the grant award, in accordance with the State's plan.

The definition of *involved LEAs* clarifies that such LEAs choose to work with the State to implement those specific portions of the State's plan that necessitate full or nearly-full statewide implementation, such as transitioning to a common set of K–12 standards (as defined in this notice). Involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application.

Comment: Many commenters recommended that the Department define ''participating school'' in the final notice.

Discussion: Participating LEAs are responsible for determining the roles and responsibilities of their schools in Race to the Top activities; these should be consistent with the LEA's agreement with the State. Consequently, we do not believe that there is a need for a definition of participating school in this notice.

Changes: None.

Comment: Commenters requested additional clarification pertaining to how States would identify and account for LEA participation and support in State reform plans. Multiple commenters recommended that participating LEAs and charter schools formally declare their support in writing as part of the Race to the Top application. One commenter recommended requiring States to list all the LEAs that requested to be included in designing and developing the State plan.

Discussion: Proposed criterion (E)(3)(iv) was included to elicit information about the extent of the commitment to and participation of LEAs in a State's Race to the Top plan. Because we believe that States should begin their Race to the Top proposals with clear statements of their entire reform agendas, and because LEA implementation is a central component of that agenda, we are moving this criterion into the new ''State Success Factors'' section. Furthermore, to add clarity, we are dividing the proposed criterion into two revised criteria. In this final notice, criterion (A)(1)(ii) addresses the level of commitment among participating LEAs, while criterion (A)(1)(iii) addresses the extent of LEA participation.

Because the extent of LEA participation should be measured partly by the expected effects on student outcomes statewide, we have incorporated into criterion (A)(1)(iii) the language from proposed criterion (E)(4) regarding a State's goals for increasing student achievement, decreasing achievement gaps, and increasing graduation rates. As discussed later, we also include new criterion (A)(1)(iii)(d) regarding increasing college enrollment and credit accumulation.

In addition, as evidence to support the State's response to criteria (A)(1)(ii) and (A)(1)(iii), Appendix A to this notice asks States for the following information: (1) An example of the State's standard participating LEA MOU and description of variations used, if any; (2) the completed summary table indicating which specific portions of the State's plan each LEA is committed to implementing and relevant summary statistics; (3) the completed summary table, indicating which LEA leadership signatures have been obtained; (4) the completed summary table, indicating

the numbers and percentages of participating LEAs, schools, K–12 students, and students in poverty; (5) tables and graphs that show the State's goals, overall and by subgroup, requested in criterion (A)(1)(iii), together with the supporting narrative; and (6) the completed detailed table, by LEA, that includes the information requested in criteria (A)(1)(ii) and (A)(1)(iii).

As discussed in greater detail elsewhere in this notice, the Department is providing a sample MOU (see Appendix D) to assist States and LEAs during this process.

Changes: Criterion (A)(1)(ii) specifies that reviewers will evaluate the extent to which the participating LEAs are strongly committed to the State's plans and to effective implementation of the four education reform areas, as evidenced by Memoranda of Understanding (MOUs) (as set forth in Appendix D) or other binding agreements between the State and its participating LEAs (as defined in this notice) that include—

(a) Terms and conditions that reflect strong commitment by the participating LEAs (as defined in this notice) to the State's plans;

(b) Scope-of-work descriptions that require participating LEAs (as defined in this notice) to implement all or significant portions of the State's Race to the Top plans; and

(c) Signatures from as many as possible of the LEA superintendent (or equivalent), the president of the local school board (or equivalent, if applicable), and the local teachers' union leader (if applicable) (one signature of which must be from an authorized LEA representative) demonstrating the extent of leadership support within participating LEAs (as defined in this notice).

In addition, criterion (A)(1)(iii) specifies that LEA participation will be evaluated based on the extent to which the LEAs that are participating in the State's Race to the Top plans (including considerations of the numbers and percentages of participating LEAs, schools, K–12 students, and students in poverty) will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for—

(a) Increasing student achievement in (at a minimum) reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;

(c) Increasing high school graduation rates (as defined in this notice); and

(d) Increasing college enrollment (as defined in this notice) and increasing the number of students who complete at least a year's worth of college credit that is applicable to a degree within two years of enrollment in an institution of higher education.

Finally, Appendix A, Evidence and Performance Measures, has been revised to specify the evidence that States must submit when responding to criteria (A)(1)(ii) and (A)(1)(iii).

Memoranda of Understanding (MOUs)

Comment: Many commenters requested clarification regarding the MOUs between States and participating LEAs, including the purpose, requirements, and expected contents of the MOUs.

Discussion: We agree with the commenters that additional clarification is needed on the purpose and content of the MOUs. As discussed earlier, we are clarifying in criterion (A)(1)(ii) the elements of the MOU or other binding agreements that reviewers will consider in evaluating LEA commitment. We also are adding a new requirement that clarifies the expectations for the Participating LEA scope of work. Finally, we are including in Appendix D to this final notice a model MOU to provide further guidance to States in preparing these agreements with their LEAs.

Changes: We have added to the program requirements a new *Participating LEA Scope of Work* requirement, which clarifies that the agreements signed by participating LEAs (as defined in this notice) must include a scope-of-work section. The scope of work submitted by LEAs and States as part of their Race to the Top applications will be preliminary. Preliminary scopes of work should include the portions of the State's proposed reform plans that the LEA is agreeing to implement. If a State is awarded a Race to the Top grant, its participating LEAs (as defined in this notice) will have up to 90 days to complete final scopes of work, which must contain detailed work plans that are consistent with their preliminary scopes of work and with the State's grant application, and should include the participating LEAs' specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures. We have added a new Appendix D to this notice which provides a model MOU that States may use in developing these agreements.

Comment: One commenter suggested that final agreements with participating LEAs should be based on the actual amount of funding a State receives and, therefore, that States should not be required to provide detailed MOUs with their applications.

Discussion: The Department agrees that LEAs should not have to provide final agreements detailing their precise activities at the time that States apply, and as discussed earlier, we are clarifying in the new *Participating LEA Scope of Work* requirement that States will have 90 days after the receipt of a grant to negotiate the final scope of work agreements with their participating LEAs. However, we believe that it is critical that LEAs indicate, at the time they sign their MOU in connection with the State's application, which parts of the State's plan they will participate in implementing. Peer reviewers must have this information in order to determine, under criterion (A)(1)(ii), whether the State's participating LEAs are indeed strongly committed to the State's plan. We also note that, because we are providing nonbinding budget ranges in the notice inviting applications and encouraging States to propose budgets that match the plans they propose, States should have some sense of the expected funding available for LEAs before they apply for their grants.

Changes: None.

Comment: One commenter recommended that the Department accept a signed ''certification of consultation,'' rather than an MOU. The commenter stated that such a certification would be the more appropriate method for demonstrating agreement in the commenter's State.

Discussion: We understand that States may have processes and procedures other than an MOU that they use to establish agreements with their LEAs. As long as such certifications or agreements are binding, they may be included in a State's application as evidence of its LEAs' commitment to its reform plan. We are adding language in criterion (A)(1)(ii) to make this clear.

Changes: Criterion (A)(1)(ii) provides that participating LEAs' commitment to the State's plans may be evidenced by an MOU or other binding agreement.

Comment: A few commenters stated that it would be burdensome and time-consuming to require MOUs between an SEA and its LEAs with required signatories, and suggested that the Department allow SEAs to design and propose a stakeholder input process in accordance with State and local needs. One commenter requested clarification

as to whether a State's Race to the Top application must include an MOU with each LEA or whether an outline of what would be covered in an MOU with an LEA would suffice.

Discussion: The Department acknowledges that requiring States to develop and obtain signed MOUs for submission with Race to the Top applications on a short timeline will be a challenge. However, strong LEA participation in State Race to the Top plans is essential if those plans are to have a broad impact on student outcomes. To assist States in this work, we are providing, as part of the application package and Appendix D in this notice, a model MOU that States can adapt or use in signing agreements with their participating LEAs.

With regard to the question of whether a State's Race to the Top application must include an MOU with each LEA or whether an outline of what would be covered in an MOU with an LEA would suffice, criterion (A)(1)(ii) makes clear that the MOUs included in a State's application will be used as evidence of LEAs' commitment to the State's plan. Therefore, in order to receive maximum points on criterion (A)(1)(ii), a State should have an MOU for each participating LEA. However, in acknowledgement of the short timeline, we are clarifying in the new *Participating LEA Scope of Work* requirement that a State need only include preliminary scopes of work from its participating LEA in its application. States will have up to 90 days after receiving a grant award to obtain the final scope of work from participating LEAs. States also can use this time to reach agreements with additional participating LEAs.

Changes: We have included in Appendix D to this notice a model MOU that States can adapt or use for their LEAs who will be participating LEAs. In addition, we have added a new *Participating LEA Scope of Work* requirement in order to clarify that the MOUs need only include a preliminary scope of work, which must be finalized within 90 days of the State receiving a Race to the Top award. This requirement also clarifies that winning States can reach agreements with additional participating LEAs within 90 days of the State receiving a Race to the Top award.

Comment: Several commenters requested that the MOU between the State and its LEAs require the signature of the president of the local PTA units and State charter school membership associations. Another commenter requested that State union leaders be required to approve the State's entire application.

Discussion: The Department agrees that Race to the Top plans would benefit from input and involvement by parents, teachers, and the organizations that represent them. Thus, at the State level, criterion (A)(2)(ii) includes teachers' unions, parent-teacher organizations, and charter school membership associations among the broad group of stakeholders from which a State could obtain statements or actions of support to demonstrate statewide commitment to its Race to the Top plan. In addition, at the LEA level, criterion (A)(1)(ii)(c) specifies that LEA leadership support will be evaluated based on the number of signatures gathered from among the superintendent (or equivalent), school board president (or equivalent, if applicable), and teachers' union leader (if applicable).

Changes: None.

Comment: Two commenters recommended removing the phrase ''ambitious yet achievable'' in proposed criterion (E)(4) on the grounds that it might encourage States to set a low bar and that it reflects a step backward from current ESEA accountability requirements emphasizing 100 percent proficiency for all students. A number of commenters requested that the Department provide more guidance on expectations for State targets.

Discussion: We are retaining the ''ambitious yet achievable'' language in criterion (A)(1)(iii) (proposed criterion (E)(4)). The Department believes that this language strikes the right balance between encouraging States to set a high bar for Race to the Top goals while recognizing that real change in education is difficult and takes time. The purpose of this language is to encourage realistic thinking and planning that connects specific activities to specific achievable results. Further, the Department believes that the competitive aspect of the Race to the Top program will prevent States from setting low bars.

Changes: None.

Comment: One commenter objected to our proposal that in responding to proposed criterion (E)(4), regarding targets for improved student outcomes, States submit an estimate of the State's expected levels of future performance were the State not to receive Race to the Top funding; this commenter argued that a State's goal should be the same with or without additional funding. Another commenter requested clarification as to how such outcomes should be estimated.

Discussion: Because this requested piece of evidence was confusing to States, we have decided not to include it in the final notice.

Changes: The final notice does not ask States to provide estimates of their expected levels of future performance were they not to receive funds under this program.

Selection Criterion (A)(2)(ii): Stakeholder Support (proposed criterion (E)(3)):

Comment: We received many comments on the list of stakeholders in proposed criterion (E)(3) from which States could enlist support and commitment for their State plans. Many commenters welcomed the broad list of stakeholders; in particular, several commenters expressed appreciation for including teachers' unions in the list of stakeholders given the need for teacher and school staff support to effectively implement Race to the Top reforms. A few commenters recommended adding principals to the list of stakeholders. Some commenters recommended that States obtain the signature of union leaders on their applications, while another recommended that teachers' unions not be given ''veto power'' over statewide or local plans.

Discussion: We agree with commenters that it is important for States to obtain support for their reform plans from teachers and principals, and that this should include a State's teachers' union or statewide teachers' association. As stewards of the teaching workforce, teachers' unions have a critical role to play in education reform. Therefore, in this final notice, criterion (A)(2)(ii)(a) (proposed criterion (E)(3)) specifically identifies teachers and principals, which include a State's teachers' union or statewide teachers' association, as stakeholders whose support will earn States points. However, we decline to require States to obtain signatures from union leaders in order to apply for a Race to the Top Grant.

Note that for clarity, we have moved ''charter school authorizers'' from this list to the list in criterion (A)(2)(ii)(b), regarding other critical stakeholders.

Changes: Criterion (A)(2)(ii)(a) provides for evaluation of a State's application based on the extent to which it has a high-quality plan to use the support from its teachers and principals, which include the State's teachers' unions or statewide teacher associations, to better implement its plans.

Comment: Some commenters stated that State plans should not include elements that potentially undermine collective bargaining agreements.

Discussion: We agree with the comment that State reform plans should

not undermine collective bargaining agreements. We also believe that Race to the Top may lead to forward-thinking approaches that change how LEAs and teachers' unions work together within the framework of collective bargaining. Of course, any changes to collective bargaining agreements must be collectively bargained.

Changes: None.

Comment: Many commenters recommended that other stakeholder groups be included in proposed criterion (E)(3) as groups from which States should obtain support and commitment for their State plans. Commenters recommended that the following groups be included: State legislatures, charter school associations, parent and family organizations, parent-teacher associations, Parent Information and Resource Centers, youth-serving community-based organizations (CBOs) and other community groups, CBOs serving Native American tribes, higher education leaders and providers, members of the business community, private and faith-based school leaders, students, local education funds, value-added intermediaries, public broadcasting entities, municipal leaders, teachers and principals who have successfully turned around schools, school service providers, guidance counselors, statewide after-school networks, and statewide teacher associations.

Discussion: We appreciate the broad and diverse group of stakeholders that commenters identified as important to States' reform efforts. Obviously, the stakeholders from which a State should garner support for its reform plan will vary based, to a large extent, on the unique needs of the State and its LEAs. While we cannot include all of the stakeholders recommended by commenters in this notice, we believe it is important to include several examples for illustrative purposes and to encourage States, as appropriate to their unique contexts, to solicit broad support. We are, therefore, designating proposed criterion (E)(3)(ii) as criterion (A)(2)(ii)(b), and adding ''charter school authorizers'' from proposed criterion (E)(3)(i), as well as additional stakeholders from whom the State may want to obtain support for its plans.

Changes: Criterion (A)(2)(ii)(b) reads as follows: ''Other critical stakeholders, such as the State's legislative leadership; charter school authorizers and State charter school membership associations (if applicable); other State and local leaders (*e.g.,* business, community, civil rights, and education association leaders); Tribal schools; parent, student, and community organizations (*e.g.,* parent-teacher associations, nonprofit organizations, local education foundations, and community-based organizations); and institutions of higher education.''

Comment: Some commenters viewed proposed criterion (E)(3) as an opportunity to be involved in developing a State's reform plan. One commenter recommended adding language to the final notice to require LEA participation in the development of the State plan, while another commenter proposed that States develop their plans in consultation with civil rights leaders, parents, and community groups that are representative of the State's population, and document such consultation. Other commenters recommended that the Department award additional points for State plans that coordinate and integrate support from education, health, nutrition, social services, and juvenile justice stakeholders, or for demonstrating a broad spectrum of stakeholder support.

Discussion: There is no requirement that a State involve its LEAs, or any other persons or groups, in developing its reform plan. However, given that the success of a State's plan depends, to a large extent, on the support and commitment of its LEAs to implement the plan, we strongly encourage States to work together with their LEAs in developing their State plan. Similarly, we believe that committed and interested stakeholders can make the difference in a reform's success or failure. We decline to require States to develop their plans with any specific stakeholders or to award additional points for plans that coordinate with specific groups or agencies, as recommended by commenters. We believe the decision on who to work with in developing a State plan is best left to States.

Changes: None.

Comment: A number of commenters expressed concern that requiring support or input from a broad range of stakeholders could lead to less rigorous, ''watered-down'' plans if States were to satisfy all the different groups with their competing interests. Some of these commenters recommended eliminating the provision on stakeholder support from the final notice, while others suggested clarifying that ''buy-in'' from all stakeholders is not required. Several commenters requested a definition of ''statewide support.''

Discussion: Race to the Top does not require States to work with specific stakeholders (other than LEAs) or obtain their support and commitment in order to be eligible for a grant. Instead, States will earn points for demonstrating stakeholder support under criterion (A)(2)(ii). In addition, we note that the list of proposed stakeholders in criterion (A)(2)(ii)(b) is illustrative. We believe that this list provides sufficient clarity regarding the phrase ''statewide support'' and, therefore, decline to define it in this notice.

Changes: None.

Comment: Some commenters requested that the Department include in the final notice examples of the specific kinds of evidence that should be used to demonstrate stakeholder support. For example, one commenter suggested that evidence of support should include strong letters of commitment from teachers' unions; another commenter suggested that States provide documentation that plans were developed with stakeholder support.

Discussion: We agree that it would be helpful to specify the evidence that a State should submit to demonstrate the strength of its support from a broad range of stakeholders. To give further guidance as to how States should respond to this criterion, we are revising criterion (A)(2)(ii) to clarify that reviewers will judge the extent to which a State has a high-quality plan to use its stakeholder support to better implement its Race to the Top plans, as evidenced by the strength of its stakeholders' statements or actions of support. We are also clarifying in Appendix A to this notice that States should provide the key statements or actions of support and a summary of them in their applications.

Changes: We have added to the introduction in criterion (A)(2)(ii), the following: ''Use support from a broad group of stakeholders to better implement its plans, as evidenced by the strength of the statements or actions of support from—.'' We have changed the requested evidence in Appendix A to require that States provide ''a summary in the narrative of the statements or actions and inclusion of key statements or actions in the Appendix'' when responding to this criterion.

Selection Criterion (A)(2): Building State Capacity (proposed criterion (E)(5)):

Comment: A number of commenters expressed support for criterion (A)(2) (proposed criterion (E)(5)), which focuses on a State's plan to build statewide capacity to implement, scale up, and sustain its reform plan. One commenter in particular emphasized the importance of plan implementation. This commenter claimed that States

often make empty promises and fail to deliver on their grant applications.

Discussion: We agree that the Race to the Top competition must judge States' capabilities to implement their plans, as well as the quality of the plans themselves. To emphasize this point, we are moving most of the criteria in proposed criterion (E)(5) to criterion (A)(2)(i), in which the Department will evaluate the extent to which a State has a high-quality plan to ensure it has the capacity necessary to implement its proposed Race to the Top plans. We are adding a criterion regarding State leadership. We are also including in criterion (A)(2)(i)(c) (proposed (E)(5)(i)) more specific examples of activities that support effective and efficient grant administration, such as budget reporting and monitoring, performance measure tracking and reporting, and fund disbursement.

Changes: Criterion (A)(2)(i)(a) has been added to address the extent to which a State has a high-quality plan to provide strong leadership and dedicated teams to implement the statewide education reforms plans the State has proposed. Criterion (A)(2)(i)(c) incorporates with minor changes the language from proposed criterion (E)(5)(i) and now reads: ''Providing effective and efficient operations and processes for implementing its Race to the Top grant in such areas as grant administration and oversight, budget reporting and monitoring, performance measure tracking and reporting, and fund disbursement.''

Comment: Some commenters supported proposed criterion (E)(5)(ii) and its focus on ensuring the dissemination of best practices.

Discussion: We agree that supporting LEAs to implement the State's reform plans and disseminate successful practices is critical to a State's reform efforts. Therefore, we are re-designating proposed criterion (E)(5)(ii) as criterion (A)(2)(i)(b) and adding examples of State activities that will help LEAs successfully implement reform plans, such as identifying promising practices, evaluating the effectiveness of these practices, ceasing ineffective practices, and widely disseminating and replicating effective practices.

Changes: We have re-designated proposed criterion (E)(5)(ii) as criterion (A)(2)(i)(b) and added additional text for clarity and completeness. Criterion (A)(2)(i)(b) now reads as follows: ''Supporting participating LEAs (as defined in this notice) in successfully implementing the education reform plans the State has proposed, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs (as defined in this notice) accountable for progress and performance, and intervening where necessary.''

Comment: Some commenters suggested that the Department require coordination between State agencies and education-related organizations, for example, to share and scale up the adoption of successful Race to the Top strategies. Other commenters requested clarification regarding the collaboration contemplated by the Department in proposed criterion (E)(5)(iv), which would examine the quality of a State's plan to collaborate with other States on key elements of a State's application. Another commenter suggested that the Department strengthen this collaboration requirement.

Discussion: We agree that States and LEAs should partner with and learn from outside organizations, other agencies, and other States and LEAs whenever doing so would help them improve student outcomes. However, commenters' confusion over the Department's intentions around collaboration convinced us that reviewers would be best able to reliably score State applications if collaboration were evaluated in the context of specific plans rather than as a stand-alone portion of a State's application. In other words, to the extent that a State improves the quality of its plan in response to a given criterion by collaborating with others, the State will receive credit under that criterion for having a high-quality plan. In addition, in situations where there is especially clear value to collaboration among States, such as in the development of common standards and assessments (see criteria section B), we have specifically encouraged collaboration. We have therefore removed from this notice the more general criterion on collaboration (proposed criterion (E)(5)(iv)).

Changes: We have removed proposed criterion (E)(5)(iv), regarding collaboration with other States, from this final notice.

Comment: Some commenters emphasized the need for States to ensure that LEAs have sufficient resources to implement reforms.

Discussion: We agree with the commenters that LEA activities are central to Race to the Top and that LEAs will need sufficient resources to make their activities a success. In the NPP, proposed application requirement (e) required a State to include a budget that detailed, among other things, how it would use grant funds and other resources to meet targets and perform related functions. In this notice, we have retained that application requirement (re-designated as application requirement (c)), but also included language in criterion (A)(2)(i)(d) directing reviewers to evaluate how the State will use its Race to the Top funds to accomplish its plans and meet its targets. We also note that, under section 14006(c) of the ARRA, States must subgrant at least 50 percent of their Race to the Top grant to participating LEAs based on LEAs' relative shares of funding under Part A, Title I of the ESEA. In addition, States have considerable flexibility in awarding or allocating the remaining 50 percent of their Race to the Top awards, which are available for State-level activities, disbursements to LEAs, and other purposes as the State may propose in its plan.

Changes: Criterion (A)(2)(i)(d) provides for the evaluation of the extent to which the State has a high-quality plan for using the funds for this grant, as described in the State's budget and accompanying budget narrative, to accomplish the State's plans and meet its targets, including, where feasible, by coordinating, reallocating, or repurposing education funds from other Federal, State, and local sources so that they align with the State's Race to the Top goals.

Comment: A number of commenters expressed concern regarding proposed criterion (E)(5)(v), which focuses on the extent to which States coordinate, allocate, or repurpose funds from other sources to align with the State's Race to the Top goals. One commenter suggested that it was beyond the scope of the Race to the Top program to suggest that non-ARRA funds be reallocated to meet the goals of the Race to the Top program. A number of commenters requested that the Department add the phrase ''consistent with program requirements'' after proposed criterion (E)(5)(v) to ensure that reallocation of funds does not violate the program requirements of the IDEA.

Discussion: In response to concerns raised by many commenters regarding a State's ability or authority to repurpose education funds from other sources to align with a State's Race to the Top plan, we are adding ''where feasible'' in proposed criterion (E)(5)(v). We also are re-designating proposed criterion (E)(5)(v) as criterion (A)(2)(d) and adding additional text for clarity and completeness. However, we continue to believe that States need to focus and align their education funding resources for maximum impact consistent with

existing program requirements, and that Race to the Top should encourage States to leverage the improved use of all available resources, regardless of the source, to support effective, comprehensive changes in State and local education systems. In this context, consideration of the extent to which a State is willing to realign available resources in support of Race to the Top goals is not only appropriate, but necessary.

Changes: We have re-designated criterion (E)(5)(v) as criterion (A)(2)(d) and clarified that States will be judged based on their coordination, reallocation, or repurposing of education funds so that they support Race to the Top goals ''where feasible.''

Comment: One commenter recommended amending proposed criterion (E)(5)(iii) to include fiscal resources, rather than ''economic resources'' in the list of resources that States should use to continue Race to the Top reforms after the grant funding. Another commenter recommended clarifying that grant activities should be continued only if there is evidence of success.

Discussion: We agree that ''fiscal'' is a better word than ''economic'' to describe the financial resources that a State will use to continue Race to the Top reforms after the period of Race to the Top funding has ended. Therefore, we are changing proposed criterion (E)(5)(iii) to refer to fiscal resources and re-designating criterion (E)(5)(iii) as criterion (A)(2)(i)(e). In addition, we are adding language to criterion (A)(2)(i)(e) to clarify that post-Race to the Top grant planning applies only to continuing support for Race to the Top activities for which there is evidence of success.

Changes: We have re-designated proposed criterion (E)(5)(iii) as criterion (A)(2)(i)(e) and revised the criterion to read as follows: ''Using the fiscal, political, and human capital resources of the State to continue, after the period of funding has ended, those reforms funded under the grant for which there is evidence of success.''

Selection Criterion (A)(3): Demonstrating Significant Progress in Raising Achievement and Closing Gaps (proposed criteria (E)(1) and (E)(4)):

Note: This section includes issues common to criteria (A)(1)(iii) and (A)(3)(ii).

Comment: None.

Discussion: The ARRA emphasizes the importance of States demonstrating significant progress in meeting the objectives of the four assurance areas. In the NPP, proposed criterion (E)(1)(i) asked States to describe their progress in each of the four education reform areas generally, proposed criterion (E)(1)(ii) asked States to describe how they have used ARRA and other Federal and State funding to pursue reforms in these areas, and proposed criterion (E)(1)(iv) asked States to describe the successes they have had in increasing student achievement, closing achievement gaps, and increasing graduation rates. In order to reduce redundancy and the burden on States, we are combining proposed criteria (E)(1)(i) and (E)(1)(ii) into one criterion and designating it as criterion (A)(3)(i). We are also designating proposed criterion (E)(1)(iv) as criterion (A)(3)(ii). Both of these revised criteria are now part of the State Success Factors section. We believe this reorganization more logically groups our requests for information regarding progress. We have also added, in criterion (A)(3)(ii), that States may report progress since ''at least'' 2003 to allow a longer data history for States that have such data (all States have NAEP and ESEA data since 2003, but not all States participated in all of NAEP prior to 2003). Further changes to criterion (A)(3)(ii) are discussed later in this section.

Changes: We have combined proposed criteria (E)(1)(i) and (E)(1)(ii) into one criterion, designated (A)(3)(i), and designated proposed criterion (E)(1)(iv) as criterion (A)(3)(ii). Criterion (A)(3) now evaluates a State based on the extent to which the State has demonstrated its ability to—

(i) Make progress over the past several years in each of the four education reform areas, and used its ARRA and other Federal and State funding to pursue such reforms;

(ii) Improve student outcomes overall and by student subgroup since at least 2003, and explain the connections between the data and the actions that have contributed to—

(a) Increasing student achievement in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; and

(c) Increasing high school graduation rates.

Comment: A number of commenters objected to our proposal that States demonstrate progress in increasing student achievement and closing the achievement gap using the National Assessment of Educational Progress (NAEP). Some of these commenters asserted that the NAEP provides an incomplete and distorted view of student achievement, particularly the achievement of students with disabilities. Another commenter noted that the NAEP does not include high school results. Others expressed concern that using the NAEP data would only encourage teaching to a test or would conflict with the NAEP's purpose as an outside and valid measurement. Several commenters stated that, in addition to the NAEP, the Department should allow States to demonstrate achievement gains on assessments or achievement measures under the ESEA, such as the annual proficiency scores and targets used to determine adequate yearly progress (AYP), including proficiency rates broken down by subgroup. One commenter stated that it would be particularly unfair to require a State to use NAEP data where the State could demonstrate that it has more rigorous assessments. Other commenters suggested the final notice permit States to include other measures to demonstrate achievement gains.

Discussion: The Department proposed using NAEP results to measure State progress in increasing student achievement and decreasing achievement gaps because NAEP is the only national measure of student achievement that is comparable across States. The limitations of the NAEP, as pointed out by commenters, are well-known: It is not aligned to State content standards, does not include high school results, and may not provide accurate achievement information for students with disabilities and certain other subgroups. Also, the NAEP is not administered annually, limiting the number of data points available for measuring progress toward Race to the Top goals. However, the ability of NAEP to compare progress across States and to be a consistent measure over time remains a compelling reason to use it for Race to the Top. Accordingly, we believe that including data from both the NAEP and the annual State assessments required under the ESEA will provide a more complete and valid picture of State progress to date and States' goals for increasing student achievement and decreasing achievement gaps. We are incorporating with some revisions the language from proposed criteria (E)(1)(iv) and (E)(4) into criteria (A)(3)(ii) and (A)(1)(iii) to reflect this decision. In addition, we are specifying in application requirement (g) that when describing data for the assessments required under the ESEA, the State should note any factors (*e.g.,* changes in cut scores) that would impact the comparability of data from one year to the next. We also note that

including more than one assessment should significantly reduce any risks of teaching to the test. As a result, we do not believe that including this use of the NAEP in Race to the Top will affect NAEP's validity or utility as an objective measure of student achievement, as suggested by commenters.

Regarding the comment that we should allow States to demonstrate achievement gains on assessments or achievement measures under the ESEA, such as the annual proficiency scores and targets used to determine AYP, we note that States already issue annual reports on AYP status for schools and LEAs, including proficiency rates for all schools; there is no need to duplicate this reporting by requiring its inclusion in a State's annual Race to the Top report. However, States that desire to include AYP data (or other measures) in their annual Race to the Top reports would be free to do so.

Changes: Proposed criteria (E)(1)(iv) and (E)(4) have been redesignated as criteria (A)(3)(ii) and (A)(1)(iii), respectively. They have been revised to consider both NAEP and ESEA assessment results when evaluating increases in student achievement and decreases in achievement gaps in reading/language arts and mathematics; criterion (A)(3)(ii) considers these in terms of historic gains (since at least 2003), while criterion (A)(1)(iii) considers them in terms of future goals in light of the participation of the State's LEAs in the State's reform plans. The evidence requested in Appendix A has also been revised to conform with the criteria. We have also added application requirement (g), which we discuss in more detail later in this notice.

Comment: Many commenters recommended modifications or additions to the achievement measures for assessing past progress and setting future targets in proposed criteria (E)(1)(iv) and (E)(4). Other commenters supported the NPP's emphasis on increasing student achievement, narrowing achievement gaps, and increasing graduation rates. One key area of concern for several commenters was dropout recovery and prevention, with one commenter recommending that the Department supplement existing measures on graduation rates in proposed criteria (E)(1)(iv) and (E)(4)(iii) with targets for decreasing the number of young people aged 18 to 24 without a high school diploma. Other commenters recommended that States set targets and report on the percentage of low-income and minority 9th grade students who graduate from high school in four years, the number of low-income and minority students who are on track to be college- and career-ready, and increases in the percentage of low-income and minority students being taught by effective teachers. Other commenters recommended the addition of targets for early childhood education, such as goals for kindergarten readiness and third-grade reading and mathematics. A few commenters suggested that in evaluating Race to the Top applications, the Department consider the extent to which a State has ambitious annual targets for increasing college enrollment and completion rates or increasing college and career readiness.

Discussion: The Department acknowledges that many measures could demonstrate progress toward Race to the Top goals. We especially agree that increasing college enrollment is an important area that should be reviewed in the context of Race to the Top. We are, therefore, adding criterion (A)(1)(iii)(d), which examines the extent to which a State's LEA participation will allow the State to reach its ambitious yet achievable goals for increasing college enrollment and credit accumulation. We are also adding a definition of *college enrollment* to help States respond appropriately to this criterion.

After careful consideration of the comments, the Department believes that this new criterion, in combination with the proposed measures—which focus on reading, mathematics, and increasing graduation rates—reflect the right emphasis on key areas that States can report on with some validity and comparability. Further increasing the number of measures would increase data collection and reporting burdens on States and LEAs, many of which have not been collecting data in the areas suggested by commenters. States that want to include their own supplemental measures and targets are free to do so, and the ongoing expansion of State data systems, which is supported by the Race to the Top program and encouraged under invitational priority 4, will likely facilitate future indicators and targets in such areas as early childhood, drop-out prevention, and student mobility.

Changes: We have added criterion (A)(1)(iii)(d), which rewards States whose LEA participation will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for increasing college enrollment (as defined in this notice) and increasing the number of students who complete at least a year's worth of college credit that is applicable to a degree within two years of enrollment in an institution of higher education. We have also added a definition of *college enrollment,* which refers to the enrollment of students who graduate from high school consistent with 34 CFR 200.19(b)(1) and who enroll in an institution of higher education (as defined in section 101 of the Higher Education Act, Public Law 105–244, 20 U.S.C. 1001) within 16 months of graduation.

Comment: Many commenters requested that the Department ensure that State applicants set targets for all core academic subjects reported by the NAEP, and not only in reading and mathematics, as in proposed criteria (E)(4)(i) and (ii).

Discussion: The final notice continues to focus on reading and mathematics achievement, partly to ensure consistency with ESEA assessment requirements and partly to promote comparability, since all States have NAEP and ESEA assessment results dating back to at least 2003 in those subjects. The Department notes, however, that these are minimum expectations; States may include assessment results in other subjects both to demonstrate past progress and to measure Race to the Top performance going forward.

Changes: None.

Comment: Many commenters recommended that States focus more narrowly on specific student groups in crafting their State Plans to raise student achievement and close achievement gaps, including among high-need students.

Discussion: We agree with the commenters that closing achievement gaps is an urgent national priority. Proposed criterion (E)(4) asked States to set ambitious yet achievable goals for closing achievement gaps, as well as for increasing student achievement and graduation rates overall and by subgroup. Criterion (A)(1)(iii) in this final notice retains these provisions and includes similar subgroup-specific goals in new criterion (A)(1)(iii)(d), regarding college enrollment and credit accumulation. This final notice also includes new language in criterion (A)(3)(ii) specifying that States' recent gains in increasing student achievement and graduation rates will be evaluated both overall and by student subgroup. We leave it to States to determine which of the subgroups in their student populations need the most attention.

Changes: Criterion (A)(3)(ii) rewards States that have demonstrated the ability to improve student outcomes overall and by student subgroup since at least 2003 and explain the connections

between the data and the actions that have contributed to—

(a) Increasing student achievement in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; and

(c) Increasing high school graduation rates.

Comment: A number of commenters suggested that the Department should not ask States to report data disaggregated by the student subgroups in section 303(b)(2)(G) of the NAEP but rather use the student subgroups as described in section 1111(b)(2)(C)(v)(II) of the ESEA. Others emphasized the importance of disaggregating data by subgroup, including race and gender.

Discussion: We agree with the need to clarify the subgroups for which States must report achievement data given the differences in reporting achievement data by subgroups under the NAEP versus under the ESEA. As discussed earlier, we are adding new paragraph (g) in the application requirements that explains the subgroup data that a State must provide in various parts of the application. Specifically, when addressing items in the criteria for student subgroups with respect to the NAEP, the State must provide data using the NAEP subgroups as described in section 303(b)(2)(G) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622) (*i.e.,* race, ethnicity, socioeconomic status, gender, disability, and limited English proficiency); and when addressing items in the criteria for student subgroups with respect to high school graduation rates, college enrollment and credit accumulation rates, and the assessments required under the ESEA, the State must provide data for the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (*i.e.,* economically disadvantaged students, students from major racial and ethnic groups, students with disabilities; and students with limited English proficiency). We note that States are required under section 1111(b)(3)(C)(xiii) of the ESEA to also report achievement data disaggregated by gender and migrant status.

Changes: As discussed earlier, we have added new paragraph (g) in the application requirements, which specifies that when addressing issues related to assessments required under the ESEA or subgroups in the selection criteria, the State must meet the following requirements:

(1) For student subgroups with respect to the NAEP, the State must provide data for the NAEP subgroups described in section 303(b)(2)(G) of the National Assessment of Educational Progress Authorization Act (*i.e.*, race, ethnicity, socioeconomic status, gender, disability, and limited English proficiency). The State must also include the NAEP exclusion rate for students with disabilities and the exclusion rate for English language learners, along with clear documentation of the State's policies and practices for determining whether a student with a disability or an English language learner should participate in the NAEP and whether the student needs accommodations;

(2) For student subgroups with respect to graduation rates, college enrollment and credit accumulation rates, and the assessments required under the ESEA, the State must provide data for the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (*i.e.*, economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency); and

(3) When asked to provide information regarding the assessments required under the ESEA, States should refer to section 1111(b)(3) of the ESEA; in addition, when describing this assessment data in the State's application, the State should note any factors (*e.g.*, changes in cut scores) that would impact the comparability of data from one year to the next.

Comment: One commenter recommended that the Department clarify that States must still meet AYP targets as required by the ESEA, even as they set new targets based on NAEP scores for Race to the Top accountability purposes. Another expressed concern that these criteria would tie State accountability goals and reporting to NAEP, which would conflict with ESEA requirements that link accountability to State-based standards and assessments.

Discussion: The Department does not believe that additional language is required to clarify that States must still meet existing ESEA requirements. Neither the ARRA nor this final notice affects States' compliance with and obligations under the ESEA.

Changes: None.

B. Standards and Assessments

Definitions: Common set of K–12 standards and *high-quality assessment.* Comments regarding the preceding definitions are addressed, as appropriate, below.

Selection Criterion (B)(1): Developing and adopting common standards (Proposed Selection Criterion (A)(1)):

Comment: Commenters were divided in their reactions to the criterion under which the Department would evaluate States' applications based on their commitment to adopt a common set of K–12 standards (as defined in this notice). Many commenters supported this criterion. Some suggested procedures that should be followed in the process of developing standards, including the need for broad participation from representatives of all student subgroups within a State prior to formal adoption of standards.

A few commenters, however, were opposed to the adoption of common standards for various reasons, such as a lack of evidence that common standards will benefit students and the potential cost of adopting new content standards. One commenter urged removing participation in a consortium as a necessary condition of funding because of concerns that the size and the complexity of the relationships in a consortium may have the potential for conflicts of interest. Some commenters regarded the proposed criterion as punitive. A few commenters suggested making participation in common standards an invitational priority in the interest of making adoption truly voluntary. Another commenter expressed concern that a criterion under which States would be rewarded for their commitment for adopting a common set of K–12 standards will preempt what, up to now, has been a State-led process and would call into question the voluntary nature of State adoption of standards.

Many commenters argued that States should be excused from the requirement to adopt common core standards if their current standards are as rigorous as common standards. One commenter suggested that the Department include in the final notice an additional criterion to provide recognition for those States with rigorous standards and improved student achievement. Another recommended an external review focused on rigor, college and career readiness and international benchmarking to determine whether adoption of a common set of K–12 standards is necessary.

Discussion: We appreciate commenters' support for this criterion. The Department believes that States' adoption of common sets of K–12 standards will provide a foundation for more efficient and effective creation of the instructional and assessment resources needed to implement a coherent system of teaching and

learning. We do not agree that an external review is needed to determine whether States' adoption of common K–12 standards is necessary.

Some readers appear to have been confused about the role of the criteria. One mistakenly believed that joining a consortium was a condition of funding under Race to the Top. This is not the case. Criteria are used to evaluate grant applications and applicants. States receive points for the strength and content of their responses to the criteria. In this program, we proposed that States' applications would be evaluated and receive points for demonstrating their commitment to improve standards by participating in a consortium of States working toward jointly adopting common K–12 standards. Thus, States with stronger proposals would receive more points; however, a State could receive a grant even without getting any points for this criterion. An individual State that chooses not to participate in a consortium for the development and adoption of common standards is eligible to apply for funds, but the application will not receive points under this criterion. A State that chooses not to join a consortium could describe its accomplishments in response to new criteria (F)(3) under which it could earn points for other significant reform conditions that have contributed to increased student achievement, narrowed achievement gaps, or other important outcomes. We decline to make participation in common standards an invitational priority for which a State would receive no points in the competition, rather than a selection criterion. We believe that common internationally benchmarked standards that prepare students for college and careers are a critical foundation for students' education and, therefore, are a component of a State's application deserving of evaluation and points in the competition.

We agree that there is potential for conflicts of interest to arise within consortia, but believe there are ways for consortia to mitigate such conflicts and that removal of the criterion on these grounds is not warranted.

Changes: None.

Comment: Several commenters recommended that the Department clarify in the final notice whether the reference to common standards refers specifically to the common core standards currently being developed jointly by members of the National Governors Association and the Council of Chief State School Officers. Others recommended that the guidelines be modified to recognize other multi-State consortia that have defined or adopted common standards. One commenter requested recognition of the national collaborative of State leaders developing national standards and assessments in arts education.

Discussion: In this program, the phrase ''common standards'' does not refer to any specific set of common standards, such as the common core standards currently under development by members of the National Governors Association and the Council of Chief State School Officers. The Department declines to make changes in order to endorse any particular standards-development consortium.

Changes: None.

Comment: Several commenters recommended that we clarify the meaning of ''a significant number of States'' within a consortium. One recommended that the number of States be set at a minimum of three if the quality of their common standards is comparable to the common standards developed by members of the National Governor's Association and the Council of Chief State School Officers. Others suggested that instead of a minimum number, the criterion should focus on the importance or potential impact of the proposed work.

Discussion: The goal of common K–12 standards is to replace the existing patchwork of State standards that results in unequal expectations based on geography alone. Some of the major benefits of common standards will be the shared understanding of teaching and learning goals; consistency of data permitting research on effective practices in staffing and instruction; and the coordination of information that could inform the development and implementation of curriculum, instructional resources, and professional development. The Department believes that the cost savings and efficiency resulting from collaboration in a consortium should be rewarded through the Race to the Top program when the impact on educational practices is pronounced. And generally, we believe that the larger the number of States within a consortium, the greater the benefits and potential impact. We decline to define the term ''significant number of States'' by providing a particular number of States. We are providing additional information in Appendix B regarding how this selection criterion will be scored by reviewers and adding a cross reference to Appendix B in criterion (B)(1) to emphasize that States' evidence will be evaluated using Appendix B.

Changes: The term ''significant number of States'' has been clarified in the Scoring Rubric (*see* Appendix B) so that, on this aspect of the criterion, a State will earn ''high'' points if its consortium includes a majority of the States in the country, and ''medium'' or ''low'' points if its consortium includes one-half of the States in the country or less. Additionally, we have added a reference to this in criterion (B)(1) by adding the parenthetical ''(as set forth in Appendix B)'' after ''evidenced by.''

Comment: Many commenters expressed concern regarding the proposed timeline for the adoption of common standards by June 2010. Commenters urged delay of the adoption target date in order to allow adequate time for activities such as local review and evaluation of the common standards, legislative or administrative action required for adoption, and broad stakeholder participation. Several pointed out that the proposed timeline for adoption of common standards by June 2010 conflicts with the timeline agreed to by governors and State chiefs currently participating in one consortium for the development of common standards. One commenter objected that the Race to the Top process does not allow States enough time to review the final standards from that consortium before submitting a grant application. Others questioned apparent differences for Phase 1 applicants and Phase 2 applicants regarding the actual adoption of common standards.

Discussion: The Department recognizes that States need as much time as possible to review, evaluate, and adopt common K–12 standards. We are therefore extending the deadline for adopting standards as far as possible, while still allowing the Department to comply with the statutory requirement that the Department obligate all Race to the Top funds by September 30, 2010. The new deadline in this criterion for adopting common K–12 standards is August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State. As described in the Scoring Rubric, States that meet the August 2, 2010 target date will earn more points for this criterion; a State that has a high-quality plan to adopt common standards by a later date in 2010 will earn some points for this criterion. In addition, we have clarified that Phase 1 applicants must demonstrate commitment to and progress toward adoption by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State, and that Phase 2 applicants must demonstrate adoption by that date in order to earn the most points for this criterion. We understand that adoption of standards is a legal process at the State level, and

fully expect that implementation of the standards will follow a thoughtful, deliberate course in subsequent year(s). For any State receiving funds, the Department will monitor the State's progress in meeting its goals and timelines as established in its plan, including States' progress towards adoption of common standards.

Changes: We have revised the deadline in criterion (B)(1) regarding adoption of a common set of K–12 standards. Phase 1 applicants will be evaluated based on their high-quality plans demonstrating commitment to and progress toward adopting a common set of K–12 standards by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State. Phase 2 applicants will be evaluated based on whether they adopt such standards by August 2, 2010, or at a minimum, by a later date in 2010 specified by the State in a high-quality plan toward which the State has made significant progress. Both Phase 1 and Phase 2 applicants will also be evaluated on their commitment to implementing the standards after the deadline in a well-planned way.

We also have revised and reorganized criterion (B)(1) non-substantively for purposes of clarity. When describing how a State can demonstrate its commitment to developing standards we have changed the phrase, ''improving the quality of its standards'' to ''adopting a common set of high-quality standards, as evidenced by * * *''. In criterion (B)(1)(ii)(a), we also have removed the qualifier to a common set of K–12 standards (''that are internationally benchmarked and that build toward college and career readiness by the time of high school graduation * * *'') because it is redundant with similar language in criterion (B)(1)(i)(a).

Comment: Several commenters recommended that the Department clarify in the final notice the evidence necessary for criterion (B)(1), asking whether participation in a standards development consortium or an expression of intent to participate in such a consortium, such as a Memorandum of Agreement, is sufficient. One commenter suggested that a State should be allowed to provide whatever evidence it believes is appropriate to demonstrate its efforts to address this criterion.

Discussion: We agree that the evidence for this criterion should be clearer, and have made some revisions to the evidence requested for that purpose. The evidence requested is shown in Appendix A of this notice. We do not agree with the commenter that a State should provide whatever evidence it believes is appropriate to demonstrate its efforts to address this criterion.

Changes: We have clarified some of the requested evidence for criterion (B)(1). We request that a State supply a copy of the Memorandum of Agreement, executed by the State, showing that it is part of a standards consortium, and provide the number and names of States participating in the consortium. A State should provide a copy of the final standards, or if the standards are not yet final, a copy of the draft standards and anticipated date for completing the standards. A State should also provide documentation that the standards are or will be internationally benchmarked. For Phase 1, States must provide a description of the legal process in the State for adopting standards, and the State's plan, current progress, and timeframe for adoption. For Phase 2, States must show evidence that they have adopted the standards; or, if the State has not yet adopted the standards, provide a description of the legal process in the State for adopting standards, and the State's plan, current progress, and timeframe for adoption. States may provide additional evidence beyond that requested.

Comment: One commenter asked what national and international benchmarks are required under criterion (B)(1).

Discussion: The Department is not requiring that common standards adopted by State applicants be benchmarked to *particular* international standards, but the standards should be supported by evidence that they are internationally benchmarked.

Changes: We have revised criterion (B)(1)(i) to clarify that the K–12 standards adopted by the State should be ''supported by evidence that they are'' internationally benchmarked.

Comment: A few commenters requested more detail regarding the desired characteristics of college and career ready standards. Some suggested that the Department require specific types of evidence to meet this criterion, such as measurement of the skills needed to succeed in non-remedial college courses, validation by the postsecondary system or involvement of postsecondary faculty in development of the standards and assessments.

Discussion: Criterion (B)(1) focuses on States' development and adoption of common K–12 standards that build toward college and career readiness. By using these terms, we mean that the standards should build on content knowledge and skills regarded as essential for success in college and the workforce. The Department recognizes that many kinds of documentation could reasonably support the claim that common standards build toward college and career readiness and prefers to leave the selection of appropriate documentation to the States.

Changes: None.

Definition of Common Set of K–12 Standards

Comment: We received several recommendations to modify the definition of *common set of K–12 standards.* Some commenters suggested that the definition of *common set of K–12 standards* should refer to 21st century skills; English language proficiency standards aligned to the language arts standards; and standards for science, technology, and engineering. Another commenter recommended expanding the definition to include standards currently shared across States, such as the American Diploma Project standards or ACT College Benchmarks. Other commenters recommended that the definition clearly specify whether the common standards should include standards for each high school grade or for each high school course. One commenter asked if the term ''standard'' refers to a broad statement about content or to a discrete concept or skill.

Discussion: It is up to States participating in the development of common standards to determine the content and scope of the standards, whether to organize the standards for high school by grade or by course, and whether the statement of each standard is focused broadly on general concepts or narrowly on particular skills. Therefore, we decline to make the changes recommended by the commenters.

Changes: None.

Comment: Commenters requested clarification of what it means for the common standards to be ''identical'' across all States in a consortium given that a State may supplement the common standards with additional standards. Some commenters suggested changing the definition to refer to standards that are ''aligned,'' across States, rather than ''identical.'' Other commenters suggested that the additional standards adopted by a State should be more stringent than the common standards, foster innovation, or focus on particular skills of local relevance.

Discussion: Some commenters appeared to be confused by the term ''identical'' when it was qualified by the possible addition of a supplementary group of standards that could vary across States in a consortium. The term

''identical'' refers to the common standards and not the supplementary standards and would not permit the standards to be ''aligned'' across States in a consortium, as recommended by one commenter. Upon further reflection, we believe that there may be reasons for the common standards to be slightly different across States (*e.g.,* States may use slightly different terms to refer to the same concepts or may have a particular format which would require slight changes in language) and therefore, are changing ''identical'' to ''substantially identical.'' The Department believes that it is unnecessary to include in the definition additional requirements for the supplementary standards, such as being more rigorous or fostering innovation, and therefore, declines to change the definition as requested by commenters.

Changes: We have changed ''identical'' to ''substantially identical'' to clarify that a common set of K–12 standards are ''substantially identical'' across all States in a consortium.

Selection Criterion (B)(2): Developing and Implementing Common, High-quality Assessments (Proposed Selection Criterion (A)(2)):

Comment: A number of commenters supported the Department's proposal to evaluate a State's commitment to improving the quality of its assessments by participating in a consortium of States developing common high-quality assessments (as defined in this notice) aligned with the consortium's common set of K–12 standards. However, other commenters requested that the Department remove this criterion, stressing that the Department has overemphasized standardized testing and that the ESEA has stressed reading and math to the detriment of other subjects. One commenter asserted that a State should not have to join a consortium if its own assessment is of high quality. Another commenter questioned why we would encourage States to change current assessment programs; this commenter suggested that we not replace current assessments until there is certainty about which aspects of current testing need change so as to not waste resources and risk development of low-quality assessments. Another commenter suggested the Department support the improvement of State and local assessment systems rather than pressuring States to ''swap one standardized test for another.''

Discussion: The Department believes that consortia of States, by pooling resources, will be able to produce significantly higher-quality assessments more cost-effectively than any one State could produce alone. Significant improvement of student outcomes can be realized when high-quality assessments aligned to common standards inform and support teacher instruction and, thus, student learning. An individual State that chooses not to participate in a consortium for the development and adoption of assessments aligned to common standards is eligible to apply for funds, but the application will not receive points for this criterion.

We understand commenters' concerns about the overemphasis of standardized testing, but believe that educators need good information about what students know and can do so that they can guide their students' learning, and adjust and differentiate their instruction appropriately. This information needs to come, in part, from academic assessments.

With respect to support for local assessments, criteria (B)(3) and (C)(3) provide opportunities for focus on local assessments and instructional improvement systems. Criterion (B)(3) evaluates a State on the extent to which it has a high-quality plan for supporting statewide transition to and implementation of enhanced standards and high-quality assessments and provides examples of State or LEA support activities, including implementation of high-quality instructional materials and assessments. In responding to this criterion, States could propose to support development of local assessments, including formative and interim assessments, that would assist in the transition to new statewide standards and assessments. Criterion (C)(3) evaluates a State on the extent to which it has a high-quality plan to increase the acquisition, adoption, and use of local instructional improvement systems (as defined in this notice); supports LEAs and schools that are using instructional improvement systems; and makes data from these systems available and accessible to researchers. Instructional improvement systems may include local assessment data.

Changes: None.

Comment: Several commenters opposed the provision in criterion (B)(2) that asked a State to describe the extent to which its consortium working on developing common high-quality assessments includes a ''significant number of States,'' recommending instead that the criterion focus only on the quality of the assessments. One commenter recommended that the criterion evaluate the extent to which the consortium has the potential to have a significant national impact, including consideration of the number and diversity of students in participating States, or the ability of participating States to serve as exemplars for statewide reform, rather than focus on the number of participating States.

Discussion: The Department believes that the cost savings and efficiency resulting from collaboration in a consortium should be rewarded through Race to the Top when the impact on educational practices is pronounced. Generally, we believe that the larger the number of States within a consortium, the greater the benefits and potential impact. While the other measures suggested by the commenters could be valuable, they would not be as objective a measure for the reviewers to consider when evaluating a State's plan. We are providing information about the scoring of this criterion in the Scoring Rubric set forth in Appendix B. Additionally, we are adding a cross reference to Appendix B in criterion (B)(2) to emphasize that States' evidence will be evaluated using Appendix B.

Changes: The term ''significant number of States'' has been clarified in the Scoring Rubric (*see* Appendix B) so that, on this aspect of the criterion, a State will earn ''high'' points if its consortium includes a majority of the States in the country, and ''medium'' or ''low'' points if its consortium includes one-half of the States in the country or less. Additionally, we added the parenthetical ''(as set forth in Appendix B)'' after ''evidenced by'' in criterion (B)(2).

In addition, we have made some non-substantive changes to this section for clarity. We have replaced ''whether'' with ''to the extent to which'' in criterion (B)(2); we have added ''as evidenced by (i) the State's participation * * *''; and we have removed the phrase ''that are internationally benchmarked'' when we refer to a common set of K–12 standards because the phrase is unnecessary and redundant with language in criterion (B)(1)(i)(a).

Comment: Many commenters suggested that the Department consider additional factors in examining a State's commitment to developing common assessments. One commenter recommended that States submit evidence from assessment developers demonstrating that the assessments are valid and reliable for English language learners, as well as showing the research base for use of accommodations. Another commenter suggested that the criterion explicitly encourage States to develop a more comprehensive local assessment system.

Discussion: Members of an assessment consortium are responsible for ensuring that assessments are developed to meet the definition of *high-quality assessments* (as defined in this notice), including the requirement that assessments are of high technical quality and include students with disabilities and English language learners. Local assessments can be addressed in response to other criteria, such as criterion (B)(3) and (C)(3) as previously discussed.

Changes: None.

Comment: A number of commenters requested that the Department clarify in the final notice how an applicant should describe its strategy for and commitment to joining a common assessments consortium and implementing common assessments. One commenter suggested that States demonstrate compliance with this criterion by developing a timeline for when assessments would be aligned to the common standards. Two commenters asked if States can include the cost of additional assessments, such as formative and benchmark assessments, in addition to summative tests in its application. Another commenter suggested that we evaluate States' progress in relation to developing common assessments on a regular basis and that reports should be provided on these evaluations.

Discussion: It is not necessary for a State to describe its strategy for joining a common assessments consortium; the evidence for this criterion focuses on a State's participation in a consortium that intends to develop high-quality assessments. The minimum evidence for which a State will receive points for this criterion is described in detail in Appendix A of this notice (Evidence and Performance Measures). The Department intends to hold a separate Race to the Top Assessment competition that will fund the development of common, summative assessments tied to common K–12 standards. We therefore believe that funds within this Race to the Top competition would be better spent on other activities. Accordingly, we have added a requirement specifying that no funds awarded under this competition may be used to pay for costs related to statewide summative assessments. Formative and interim assessments (as defined in this notice) may be funded within this competition, and would be funded as part of a State's plan for criterion (B)(3). In addition, for any State receiving funds, the Department will monitor the State's progress in meeting its goals and timelines.

Changes: We have added a program requirement that no funds awarded under this competition may be used to pay for costs related to statewide summative assessments.

Comment: A few commenters suggested that high-quality assessments include grade-by-grade specificity of core subject matter. Others suggested this notice explicitly include the assessment of broad-based humanities centered curricula, including art, science, and social studies.

Discussion: This notice does not limit or require certain grade or content coverage for high-quality assessments.

Changes: None.

Comment: Another commenter suggested that we award additional points to States that commit to developing a common STEM assessment.

Discussion: A State may choose to address competitive preference priority 2, which addresses STEM issues, and, if peer reviewers determine the State has met the priority, would receive extra points in the Race to the Top competition. The third element of this priority (a plan to address the need to prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics) could be addressed, in part, by a commitment to develop a common STEM assessment. Note, however, that a statewide summative STEM assessment would have to be developed using funds other than those awarded under this competition because, as noted in the previous comment, Race to the Top funds cannot be used to pay for costs related to statewide summative assessments.

Changes: None.

Comments: Some commenters asked that the Department provide incentives for States to develop and implement high-quality assessments beginning at pre-kindergarten.

Discussion: As previously stated, this notice does not limit or require certain grade or content coverage for high-quality assessments. We note, however, that invitational priority 3 invites States to include in their applications practices, strategies, or programs to improve educational outcomes for high-need young children by enhancing the quality of preschool programs. Of particular interest are proposals that support practices that (i) improve school readiness (including social, emotional, and cognitive); and (ii) improve the transition between preschool and kindergarten.

Changes: None.

Comment: One commenter requested that the Department state in the final notice that new assessment systems should be aligned with content standards, and be vertically integrated. Another commenter suggested that the entire K–12 assessment system should be vertically moderated to the anchor assessments so ''proficient'' means ''prepared'' and that students are on-track to meet college and career ready standards by graduation.

Discussion: Under criterion (B)(2) States will be rewarded for the development of assessments aligned with common standards that build toward college and career readiness. The technical aspects of how the assessment system is organized to reflect increasing student competence from grade to grade will be determined by the consortia developing the assessments.

Changes: None.

Comment: One commenter stated that a plan for implementing high-quality assessments must include high-quality alternate assessments.

Discussion: We agree with the commenter; however, we do not believe it is necessary to include additional language to that effect in this notice because section 1111(b)(3)(C)(ix)(II) of the ESEA requires that States include students with disabilities in their assessments. In addition, section 612(a)(16)(C) of the IDEA requires States to provide an alternate assessment to a student with a disability who needs it for any statewide assessment.

Changes: None.

Comment: Several commenters supported the statement in the NPP that, at a later date, we may announce a separate Race to the Top Assessment Competition, for approximately $350 million, to support the development of assessments by consortia of States. Several commenters asked for more explicit guidelines on standards and assessment work for Phases 1 and 2 as described in this notice, as opposed to the work for the separate $350 million fund for the development of assessments.

Discussion: As previously indicated, the Department intends to hold a separate Race to the Top Assessment competition that will fund consortia in developing common, summative assessments tied to common K–12 standards. The Department may provide additional information about this competition in the future, and as noted previously, more requirements may be articulated in that competition's notice.

Changes: None.

Definition of High-Quality Assessment

Comment: Many commenters supported the proposed definition of

high-quality assessment. Several commenters recommended that the definition refer to the use of universal design principles in test development and administration. A few commenters suggested revising the definition to clarify that the use of open-ended items, performance-based tasks, and technology are desirable and necessary only insofar as they are grade-appropriate for the subject matter and consistent with the skills to be measured. Many other commenters recommended revising the definition to include assessments and assessment systems that measure higher order and critical thinking, problem-solving, reasoning, research, writing, scientific investigation, communication, and teamwork skills.

Discussion: We agree with the commenters that the definition of *high-quality assessment* should refer to the use of universal design principles in test design and administration and are making that change. However, we are not revising the definition to include specific skills, such as critical thinking, problem solving, research, or writing skills, mentioned by the commenters because the skills and content included in an assessment will be determined by the content standards on which the assessment is based. Instead, we are revising the definition to state that a *high-quality assessment* is an assessment that is designed to measure a student's ''knowledge, understanding of, and ability to apply, critical concepts,'' rather than an assessment that is designed to measure ''understanding of, and ability to apply, critical concepts.''

We do not believe it is necessary to clarify that open-ended items, performance-based tasks, and technology should be appropriate for the grade and subject to be assessed and consistent with the skills to be measured, as recommended by commenters. We believe this is implicit in the design of any assessment and have included open-ended responses, performance-based tasks, and technology as examples, not as requirements of a high-quality assessment.

Finally, based on the Department's internal review, we are making several changes to the definition. First, in the NPP, we stated that a high-quality assessment uses a ''variety of item types, formats, and administration conditions (*e.g.*, open-ended responses, performance-based tasks, technology).'' We believe that a variety of administration conditions is not necessarily a requirement for an assessment to be of high quality. Therefore, we are revising the definition to clarify that a *high-quality assessment* uses a variety of item types and formats (*e.g.*, open-ended responses, performance-based tasks) and incorporates technology, where appropriate. Second, for consistency with the rest of the notice, we are changing the reference to ''limited English proficient students'' to ''English language learners.'' Next, the proposed definition stated that a *high-quality assessment* be ''of high technical quality (*e.g.*, valid, reliable, and aligned to standards).'' For completeness, we are adding ''fair'' to the examples in the parenthetical. Finally, for clarity, we are changing ''Such assessments are structured to enable measurement of student achievement * * *'' to ''Such assessments should enable measurement of student achievement.''

Changes: With the aforementioned changes, the definition of *high-quality assessment* is as follows: ''*High-quality assessment* means an assessment designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats (*e.g.*, open-ended responses, performance-based tasks). Such assessments should enable measurement of student achievement (as defined in this notice) and student growth (as defined in this notice); be of high technical quality (*e.g.*, be valid, reliable, fair, and aligned to standards); incorporate technology where appropriate; include the assessment of students with disabilities and English language learners; and to the extent feasible, use universal design principles (as defined in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002) in development and administration.''

Comment: Several commenters recommended that the Department require that high-quality assessments address the needs of English language learners, students with disabilities, and other learners who need targeted services.

Discussion: As defined in this notice, a *high-quality assessment* includes assessment of students with disabilities and English language learners.

Changes: None.

Selection Criterion (B)(3): Supporting the Transition to Enhanced Standards and High-Quality Assessments (Proposed Selection Criterion (A)(3)):

Comment: Many commenters approved of criterion (B)(3) regarding a State's high-quality plan for supporting a statewide transition to and implementation of enhanced standards and high-quality assessments, but stated that the Department should expand the activities that a transition plan might include. For instance, several commenters suggested that States show that they plan to increase student participation in Advanced Placement and International Baccalaureate courses, as well as dual enrollment in postsecondary credit-bearing courses, while transitioning to common standards and assessments. A few commenters suggested States commit to increasing student participation in pre-Advanced Placement courses for middle school students, and in after-school programs to accelerate achievement for students having difficulty meeting academic targets. One commenter recommended that States provide a roll-out plan for adoption of the common standards and all of their supporting components. Some commenters suggested that adoption of common standards be accompanied by the necessary supporting components, such as curricular frameworks, unit plans, lesson plans, curriculum-embedded formative assessments, anchor assignments, and rubrics. One commenter noted that States should amend course requirements for graduation to ensure that students are guaranteed to receive the content.

However, not all commenters supported additional supports and resources during a State's transition to enhanced standards and high-quality assessments. One commenter questioned whether limited Race to the Top funds should be used by States and LEAs to develop instructional materials. Another commenter was critical of requiring a plan for transition; instead this commenter suggested that a State should be judged on its transition after implementation of common standards and assessments, not before the State has developed best practices.

Discussion: We agree with many of the commenters' suggestions regarding which supporting components should be considered when transitioning to new standards and assessments. We encourage States to create plans that increase student participation in advanced coursework in order to provide for a smooth transition to internationally benchmarked standards aligned with college and career ready expectations. We also agree that a rollout plan and additional supports would aid in the transition to enhanced standards and high-quality standards, and have therefore incorporated these suggestions. We understand the commenter's concern that States may need to amend course requirements for graduation to ensure that students are guaranteed to receive the content. We

believe a statement in criterion (B)(3) addresses this comment—that State or LEA activities might include, ''in cooperation with the State's institutions of higher education, aligning high school exit criteria and college entrance requirements with new standards and assessments.''

We disagree with commenters who questioned whether limited Race to the Top funds should be used by States and LEAs to develop instructional materials. We believe that the transition to enhanced assessments and a common set of K–12 standards will not be successful without support from the States doing this work in collaboration with their participating LEAs.

We have made several edits for clarity in the illustrative list of State and LEA support activities for transition to enhanced standards and high-quality assessments. We deleted the reference to developing curricular frameworks, for example, but added a reference to ''high-quality instructional materials and assessments (including, for example, formative and interim assessments).'' Additionally, we accepted commenters' suggestion to add ''development of a rollout plan for the standards with all supporting components,'' which could include, among other things, development of curricular frameworks and materials.

Changes: We have revised the language in criterion (B)(3) to include many of the commenters' suggestions. The language now reads that State or LEA activities might, for example, include, ''developing a rollout plan for the standards together with all of their supporting components; in cooperation with the State's institutions of higher education, aligning high school exit criteria and college entrance requirements with the new standards and assessments; developing or acquiring, disseminating, and implementing high-quality instructional materials and assessments (including, for example, formative and interim assessments (both as defined in this notice)); developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments; and engaging in other strategies that translate the standards and information from assessments into classroom practice for all students, including high-need students (as defined in this notice).''

Comment: One commenter suggested including, as an additional activity to support statewide transition to and implementation of enhanced standards and high-quality assessments, building improvements for science labs and technology in the classrooms.

Discussion: Consistent with the Department's May 11, 2009, State Fiscal Stabilization Fund guidance ,[3] the Department also discourages States and LEAs from using Race to the Top funds for new construction because this use may limit the ability of the State and its LEAs to implement the State's core Race to the Top plans. States may propose that certain participating LEAs may use Race to the Top funds for modernization, renovation, or repair projects to the extent that these projects are consistent with the State's Race to the Top plan.

Changes: None.

Comment: Several commenters observed that teachers will be primarily responsible for ensuring successful implementation of new standards and, accordingly, recommended that teachers be involved in a State's transition plan. Commenters stated that a transition plan should include model lesson plans, pre-service teacher education, and in-service professional development to familiarize and train teachers on the content standards and how to use assessment results. One commenter suggested that professional development be focused on middle school and high school teachers.

Discussion: We agree with commenters that a successful transition plan should include high-quality professional development to support the transition to new standards and assessments. The NPP included developing, disseminating and implementing professional development materials as a suggested State or local activity in this criterion. We are strengthening the language about this activity to suggest development or acquisition and delivery of high-quality professional development to support the transition to new standards and assessments. We also agree with the commenter that teachers should be involved in a State's transition plan. Under criterion (B)(3) the Department will evaluate a State application on the extent to which it has a high-quality plan for supporting the transition to and implementation of enhanced standards and high-quality assessments, in collaboration with its participating LEAs. We expect that LEAs will collaborate with teachers on this criterion. In addition, in criterion (A)(2)(ii)(a), a State is judged on the extent to which it has a high-quality overall plan to (among other things) utilize the support it has from a broad group of stakeholders to better implement its plans, as evidenced by the strength of the statements or actions of support from the State's teachers and principals, which include the State's teachers' unions or statewide teacher associations.

We decline to take the commenter's suggestion that a State focus its professional development on middle and high school teachers because we believe all teachers implementing enhanced standards and high-quality assessments would benefit from high-quality professional development.

Changes: We have included language in criterion (B)(3) to clarify that a State or LEA activity might, for example, include ''developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments.''

Comment: Numerous commenters articulated a need for collaboration, stakeholder engagement, financial support, autonomy, and flexibility during the transition to enhanced standards and assessments. One commenter stated that unless States are committed to the adoption and implementation of the standards, and support LEAs and schools in implementing them, the new standards and assessments will not positively affect teaching or learning. One commenter suggested that the State plans require local school boards to ensure collaboration between school administrators and union leaders to ensure that all educators are part of the alignment of assessments. A few commenters urged the Department to encourage continuity between pre-kindergarten and elementary school as part of the transition process. One commenter supported efforts to promote a seamless articulation of standards and assessments between pre-kindergarten, K–12, and post-secondary education, since any gap leads to critical loss of learning for students.

Discussion: The Department agrees with commenters that collaboration, support, and engagement are critical factors for a successful transition to enhanced standards and high-quality assessments. The criteria in (A) establish State Success Factors, which ask States to articulate their education reform agendas and LEAs' participation in it, and explain their strategies for building strong statewide capacity to implement, scale and sustain proposed plans. Specifically, criterion (A)(2)(ii) provides for evaluation of a State's plan to utilize the support it has from a broad group of stakeholders to better implement its plans, as evidenced by

[3] *Available at: http://www.ed.gov/programs/statestabilization/guidance-mod-05112009.pdf.*

the strength of statements or actions of support from critical stakeholders.

Changes: None.

Comment: One commenter requested clarification about whether all LEAs or only participating LEAs must transition to the enhanced standards and high-quality assessments. Many commenters noted that the adoption of common standards will affect all LEAs, not only those participating in a State's Race to the Top application. Accordingly, commenters suggested that a State include in its plan how it will provide direct financial support for the operational costs incurred by LEAs as they transition to common standards and assessments.

Discussion: The NPP was clear that a State will be judged on the extent to which it has a high-quality plan for supporting a statewide transition to a common set of K–12 standards and high-quality assessments aligned to those standards. We recognize that a statewide system of standards and assessments eventually would be implemented in all LEAs, some of which are not participating in the Race to the Top grant. To address this situation, we are adding a new definition of *involved LEAs.* An involved LEA is an LEA that chooses to work with the State to implement those specific portions of the State's plan that necessitate full or nearly-full statewide implementation, such as transitioning to a common set of K–12 standards. Involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application. We expect that participating LEAs will have a greater role than involved LEAs in collaborating with States as States develop their plans, but believe that the specifics of such decisions are best left to local decision makers.

Changes: We have added a new definition of *involved LEAs*, which reads as follows: ''Involved LEAs mean LEAs that choose to work with the State to implement those specific portions of the State's plan that necessitate full or nearly-full statewide implementation, such as transitioning to a common set of K–12 standards (as defined in this notice). Involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application.''

Comment: One commenter recommended that States should provide minimum protections for their students during the transition to new standards and assessments, including a period of time to orient students and teachers to new standards and assessments, to ensure instruction time, and to eliminate disparate impact on minority students. One commenter requested that the Department address equity in the adequacy of instructional materials, suggesting that States ensure that every student has access to print or digital instructional materials that are current and aligned to the enhanced standards.

Discussion: We agree with commenters that a State should address supports for high-need students in its plan to transition to enhanced standards and high-quality assessments. We are adding a reference to high-need students in criterion (B)(3) and including a definition of *high-need students* in the Definitions section of this notice. States should have the flexibility to decide on the appropriate supports for their high-need students; therefore, we decline to specify the supports States must provide to students.

Changes: We have added language to criterion (B)(3) indicating that State or LEA activities might include ''engaging in other strategies that translate the standards and information from assessments into classroom practice for all students, including high-need students (as defined in this notice).'' We also have added a definition of high-need students, which reads as follows: ''*High-need students* means students at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English language learners.''

Comment: One commenter suggested that a State demonstrate that its public higher education institutions will certify readiness for entry into credit-bearing coursework if students meet the high school common standards through completing a course of study aligned with those standards and score at the defined college-ready level on high school assessments.

Discussion: We do not believe that we should prescribe the exact policy mentioned by the commenter; we believe a State should have the flexibility to determine, in cooperation with its institutions of higher education, the best way to align high school exit criteria and college entrance requirements with the new standards and assessments. However, we believe that some clarification of the language in criterion (B)(3) is necessary and have revised accordingly.

Changes: Criterion (B)(3) has been revised to provide that State or LEA activities might, for example, include, ''in cooperation with the State's institutions of higher education, aligning high school exit criteria and college entrance requirements with the new standards and assessments.''

Comment: A few commenters requested that States provide minimum evidence as to how they are ensuring proper implementation of their current standards, including evidence of actual implementation in classrooms, such as survey results from a representative sample of teachers demonstrating how standards are being disseminated and utilized.

Discussion: For any State receiving funds, the Department will monitor the State's progress in meeting its goals and timelines as established in its plan. Rather than requiring a State to use survey results as minimum evidence for this criterion, as some commenters suggested, we will be gathering this kind of information through evaluations. As stated elsewhere in this notice, IES will be conducting a series of national evaluations of Race to the Top State grantees as part of its evaluation of programs funded under the ARRA. Race to the Top grantee States are not required to conduct independent evaluations, but may propose, within their applications, to use funds from Race to the Top to support independent evaluations. Grantees must make available, through formal or informal mechanisms, the results of any evaluations they conduct of their funded activities. In addition, as described elsewhere in this notice and regardless of the final components of the national evaluation, Race to the Top States, LEAs, and schools are required to make work developed under this grant freely available to others, and should identify and share promising practices and make data available to stakeholders and researchers (in appropriate ways that must comply with FERPA, including 34 CFR Part 99, as well as State and local requirements regarding privacy).

Changes: None.

C. Data Systems To Support Instruction

Definitions: Instructional Improvement System

Comments regarding the preceding definition are addressed, as appropriate, below.

Selection Criterion (C)(1): Fully Implementing a Statewide Longitudinal Data System (Proposed Selection Criterion (B)(1)):

Comment: Many commenters supported criterion (C)(1) that provides for a State to be evaluated based on the extent to which it has a statewide longitudinal data system that includes all of the America COMPETES Act elements. Other commenters suggested that the Department consider using Race to the Top funds for purposes other than data systems, such as providing direct services in schools with demonstrated needs or improving the infrastructure for the delivery of instruction. One commenter suggested using the funds to develop new standards and assessments first, rather than building a longitudinal data system based on current standards and assessment systems. One commenter suggested that rather than having a major focus on State collection and sharing of data, the Department should require States to help schools and LEAs develop longitudinal data collection systems.

Discussion: The Department appreciates the support for the development and implementation of statewide longitudinal data systems. We disagree with commenters who recommend that funds not be used for this purpose. Data is an important tool to identify needs and improve instruction. In addition, section 14006(a)(2) of the ARRA directs the Secretary to make grants to States that have made significant progress in meeting the objectives of paragraphs (2), (3), (4), and (5) of section 14005(d), including the development of statewide longitudinal data systems that include the elements described in section 6401(e)(2)(D) of the America COMPETES Act. While criterion (C)(1) is a measure of the current status of States' implementation of their statewide longitudinal data systems under the America COMPETES Act (as defined in this notice), both criteria (C)(2) and (C)(3) provide for the evaluation of States' plans to enhance their statewide longitudinal data systems and local instructional improvement systems. Funds awarded under the Department's statewide longitudinal data systems grants program may also be used, in coordination with Race to the Top funds, to build out a State's data infrastructure.

Changes: None.

Comment: One commenter indicated that a State should plan for the operational costs of implementing data systems that a Race to the Top grant does not cover. This commenter recommended that the Department require each State to specifically indicate in its application how it plans to technically and financially support LEAs across the State, including developing contracts and systems that can reduce costs by involving multiple LEAs.

Discussion: We agree with commenters that it is important for a State to consider funding issues in its data system implementation plans, as well as its overall plans. Under criterion (A)(2)(i)(e), a State will be evaluated on the extent to which it has a high-quality overall plan to ensure that it has the capacity required to implement its proposed plans by using the fiscal, political, and human capital resources of the State to continue, after the period of funding has ended, those reforms funded under the grant for which there is evidence of success.

Changes: None.

Comment: Many commenters applauded criterion (C)(1), which evaluates the extent to which a State has a statewide longitudinal data system that includes all of the elements specified in section 6401(e)(2)(D) of the America COMPETES Act. Several commenters specifically highlighted the importance of including unique identifiers for students, teachers, and administrators in the list of America COMPETES Act data elements. However, many commenters suggested additional data elements that should be collected and reported through these systems.

Commenters indicated that these data systems should include multiple achievement measures and multiple data sources, such as annual achievement data for all core academic subjects, as defined in the ESEA, valid and reliable local and State assessment results, formative assessment results, performance assessment results, and English language proficiency results. One commenter recommended that the data systems include data that demonstrate a student's ability to apply, analyze, synthesize and evaluate content knowledge. A few commenters recommended collecting data on the rates of students reading at grade-level by grade 3.

Some commenters recommended various ways data should be disaggregated. They suggested that statewide longitudinal data systems be designed to allow for analysis of student achievement by race, ethnicity, socioeconomic status, gender, disability, and English language learner status. One commenter recommended that the Department encourage States to disaggregate data of vulnerable populations such as pregnant and parenting students. One commenter noted that it is critical that the statewide longitudinal data system measure all proficiency levels (*i.e.*, below proficiency, at proficiency, above proficiency, and advanced) instead of just measuring below or above proficiency.

Other commenters recommended non-assessment related data elements to be included in statewide longitudinal data systems, such as college readiness indicators, graduation rates, attendance rates, student enrollment data, course enrollment, student mobility rates, budget information, completion rates, curriculum changes, and instructional time. A few commenters suggested that in order to evaluate the progress of individual students through the K–12 system and into postsecondary education, systems should include information such as the percentage of students from each high school enrolling in institutions of higher education, students taking remedial or developmental coursework in college, or the points at which students exit, transfer in, transfer out, drop out, or complete P–16 education programs. One commenter suggested that the data systems include model lesson plans for teachers.

Some commenters recommended including data related to indicators of school safety, culture and climate. Others suggested including information about student, family and community engagement. A few commenters requested that the data systems include student social service-related data elements and health indicators, such as immunization rates, asthma rates, vision and hearing screening, and obesity rates. Several commenters recommended including measures of students' social and emotional health and character development. Others believed that data systems should provide data regarding the numbers of transfers, dropout rates, chronic absenteeism, suspension rates, truancy, and dropout re-enrollment in order to trigger supports and interventions for students and families.

Commenters also suggested that statewide longitudinal data systems should include data about teaching and learning conditions, such as teacher recruitment and retention, educator turnover, pupil and teacher ratios,

subject area teacher certification, full-time equivalent teacher employment, and the commitment to current educational programs (*i.e.*, whether the curriculum has changed) in order to help schools, districts and States better understand supports and barriers to teacher effectiveness.

One commenter recommended that statewide longitudinal data systems include information about English language learners, such as the type of English language learner instructional program in which a student participates, time in that program, level of English proficiency, and date of reclassification. Some commenters suggested requiring data about student participation in other programs, such as data on students served in gifted and talented education programs, innovative programs, expanded learning programs, or students receiving advanced coursework. One commenter recommended that data on technology use be explicitly included in statewide longitudinal data systems.

Some commenters recommended that statewide longitudinal data systems include linkages with students in adult basic education, workforce and skills training programs and corrections systems, and student information from State employment wage records.

One commenter stated that we did not provide sufficient justification for why all these data elements are essential. Another commenter suggested that the Department give States latitude to define the elements included in their data systems.

Discussion: Some of the data elements suggested by commenters mirror the data elements listed in the America COMPETES Act. Although the Department will not be evaluating whether a State's system has information beyond the 12 elements of the America COMPETES Act, we recognize the varying needs and capabilities of States, and we encourage States to track additional information through their longitudinal data systems or to add additional components to their State plans to the extent the State deems appropriate. However, the Department recognizes the financial burden of collecting data, and we believe that it is sufficient to specifically evaluate States only on the extent to which their statewide longitudinal data systems include the elements in the America COMPETES Act.

As stated in invitational priority 4, the Secretary is particularly interested in applications in which the State plans to expand statewide longitudinal data systems to include or integrate data from special education programs, English language learner programs, early childhood programs, at-risk and drop-out prevention programs, and school climate and culture programs, as well as information on student mobility, human resources (*i.e.* information on teachers, principals, and other staff), finance, student health, postsecondary, and other relevant areas, with the purpose of connecting and coordinating all parts of the system to allow important questions related to policy, practice, or overall effectiveness to be asked and answered, and incorporated into effective continuous improvement practices. While the Secretary is interested in applications that meet this invitational priority, a State meeting the priority would not receive additional points or preference over other applications. A State will be evaluated based on the extent to which it has a statewide longitudinal data system that includes all of the elements specified in section 6401(e)(2)(D) of the America COMPETES Act.

Changes: None.

Early Childhood

Comment: Several commenters supported the fact that a statewide longitudinal data system, as specified by the America COMPETES Act, would include student information beginning at the pre-kindergarten level. Some commenters recommended that the Department require a State to expand its longitudinal data system by linking with available data on young children; their participation in early childhood education programs; and the characteristics, quality, staffing, and funding of those programs in order to increase access, improve quality, identify critical social services and interventions, and align standards, curricula and assessments from pre-kindergarten through grade 3. A few commenters recommended that a data system be designed so that data eventually can be captured at birth and fed into a Quality Rating Improvement System, if a State has such a system.

Discussion: We agree with commenters that data about early childhood education programs are important to help ensure that young children begin school ready to learn. The America COMPETES Act elements specify a pre-kindergarten-16 data system. If it chooses, a State may link its longitudinal data system to available data on young children and their participation in early childhood programs, consistent with FERPA, including 34 CFR Part 99. This notice has several invitational priorities regarding early childhood programs: (a) Invitational priority 3, inviting applications in which the State plans to create practices, strategies, or programs to improve educational outcomes for high-need young children by enhancing the quality of preschool programs; (b) invitational priority 4, which invites applications that propose to expand statewide longitudinal data systems to include or integrate data from early childhood programs, among other programs; and (c) invitational priority 5, inviting applications in which the State plans to address how early childhood programs, K–12 schools, postsecondary institutions, workforce development organizations, and other State agencies and community partners, will coordinate to improve all parts of the education system and create a more seamless pre-kindergarten-20 route for students. While the Secretary is interested in applications that meet these invitational priorities, we decline to require that statewide longitudinal data systems include additional information about early childhood programs because that would go beyond the data elements specified in the America COMPETES Act.

Changes: None.

Timeline

Comment: Many commenters suggested that a State be evaluated based on the degree of progress it has made on developing a system that would comply with the America COMPETES Act rather than on the extent to which a State has completed these efforts. Another commenter suggested a State be judged on a plan to implement any missing elements of its statewide longitudinal data system. Several commenters also stated that it is not feasible for some States to have a completed statewide longitudinal data system to be in place by September 30, 2011, the date specified in the notice of proposed requirements for the State Fiscal Stabilization Fund.

Discussion: The State Reform Conditions Criteria are used to assess a State's past progress and its success in creating conditions for reform in special areas related to the four ARRA education reform areas. A State will be judged on the extent to which it has, already in place, a statewide longitudinal data system that includes the elements in the America COMPETES Act. Some commenters misunderstood criterion (C)(1); this notice does not require the statewide longitudinal data system to be completed by a particular date. Rather, a State will receive points for the elements it has completed at the time it submits its application.

Changes: None.

Development of a Statewide Longitudinal Data System

Comment: Several commenters stressed the importance of stakeholder support and technical expertise in the development and implementation of statewide longitudinal data systems. Some commenters suggested that we provide incentives to encourage States to design data systems using input from professional standards boards. Other commenters recommended seeking feedback from parents, businesses, educators, community-based partners, universities, hospitals, and students on the content and overall effectiveness of the statewide longitudinal data system.

Discussion: We agree with commenters that stakeholder and expert support in developing a longitudinal data system is important. However, we believe that each State is in the best position to determine how best to solicit technical expertise and stakeholder support and from which groups. Accordingly, we do not believe it is necessary to specify the input and support each State should seek.

Changes: None.

Comment: Some commenters suggested particular qualities of strong statewide longitudinal data systems. They argued that data sets must be common across districts, cross-operational, and supportive of developing a robust, accurate, and immediately useful data mine. Commenters emphasized the importance of developing data systems that are comprehensive, systemic, reliable, valid, and designed for long-term use. One commenter suggested that the Department ensure data elements are used to create uniform cohorts.

Discussion: We agree with commenters that these are important characteristics of a statewide longitudinal data system. We believe that the 12 data elements in the America COMPETES Act represent the qualities suggested by the commenters, and therefore, no change is necessary.

Changes: None.

Comment: One commenter recommended that the State data systems should reflect sufficient grade-to-grade alignment in order to ensure that valid grade-level growth determinations can be made in each State. This commenter urged that the Department require that such growth measures be used only with vertically scaled assessments that are appropriate for examining value-added growth. Two commenters recommended emphasizing the importance of States using cohort data in the statewide longitudinal data systems for determining student progress.

Discussion: We agree with commenters who emphasize the importance of data and assessment systems that support the measurement of student growth. In this notice, *student growth* is defined as the change in achievement data for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms. Given this definition, we decline to specify or restrict the structure of statewide longitudinal data or assessment systems but rather allow States the flexibility to develop data and assessment systems, as long as they support a growth measure that is rigorous and comparable across classrooms.

Changes: None.

Comment: Many commenters stressed that it was important for States to develop interoperable data systems that are aligned with existing technology platforms and able to incorporate data from existing data management systems. Commenters also stressed the importance of ensuring that statewide longitudinal data systems can ''communicate'' with each other so that the data in these systems can be used by early childhood centers and institutions of higher education, within and among schools, within and among LEAs, among State and local agencies, across States and with Federal agencies. One commenter requested that the Department provide additional clarification regarding America COMPETES Act element (4), ''the capacity to communicate with higher education data systems'' and whether this capacity includes data integration or two-way communication.

Discussion: The COMPETES Act requires a statewide longitudinal data system to have the capacity to communicate with higher education data systems. Therefore, statewide longitudinal data systems should have the ability to link an individual student record from one system to another, consistent with FERPA, including 34 CFR Part 99. Additionally, these systems should meet interoperability and portability standards, which will ensure that they have timely and reliable opportunities to share data across different sectors within a State and across States. Timely and reliable information from across sectors will facilitate the evaluation of which program or combinations of programs is improving outcomes for students. Note that States must consider how to protect student privacy as data are shared across agencies. Successful applicants that receive Race to the Top grant awards will need to comply with FERPA, including 34 CFR Part 99, as well as State and local requirements regarding privacy.

Changes: None.

Selection Criterion (C)(2) (proposed Selection Criterion (B)(2)): Accessing and using State data:

Uses of Data

Comment: Several commenters expressed support for our proposal to evaluate State Race to the Top applications based on the extent to which the State plans to use this data to inform and engage key stakeholders, such as policymakers, parents, students, and the public, so that they have information about how well students are performing. Many commenters recommended that these data systems should also be used to identify continuous improvement goals, address barriers that compromise student success, and highlight understanding of best practices. Some commenters suggested these data systems be used to improve instructional practice by facilitating the use of differentiated instruction, to make individualized decisions about students' academic and developmental needs, and to design comprehensive interventions to address those needs. A few commenters suggested that States use these data systems to inform professional development and teacher and administrator evaluations, evaluate teacher preparation programs, allow for the monitoring of teacher and principal assignments, and ensure equitable distribution of teachers. One commenter suggested that data be used to address conditions that lead to the racial isolation of low income students. Commenters recommended that data systems be used to inform strategic planning, inform resource allocation decisions, and support decision-makers in overall organizational effectiveness. In order to ensure that all students have equitable access to education, one commenter recommended that data be analyzed to identify and implement an appropriate array of options that use early access to college coursework as a way to promote college readiness for every student.

Discussion: Criterion (C)(2) will be used to evaluate a State on the extent to which it has a high-quality plan to ensure that the data from its statewide longitudinal data system are accessible to, and used to inform and engage decision-makers in the continuous improvement of policy, instruction, operations, management, resource allocation, and overall effectiveness. We

agree with the commenters that data from these systems can be used for many of the purposes indentified by the commenters. However, we believe most of these are covered in the broad categories of instruction, operations management, and resource allocation. We are revising the criterion to specify that such data can also be used in the areas of ''policy'' and ''overall effectiveness.''

Changes: We have revised criterion (C)(2) to include ''policy,'' and ''overall effectiveness'' as areas for which data may be used.

Building Capacity

Comment: Several commenters stated that the Race to the Top funds should be used to build State capacity for data accuracy, analysis, and dissemination. One commenter urged the Department to consider ways to help States expand and use longitudinal data systems. Other commenters recommended that a State be judged on its capacity to use the data contained in these systems or how it has moved from collecting data to transforming the data into actionable information for use.

Discussion: We agree with the commenter that State plans under this criterion should include a proposal for how the State will improve its own capacity to analyze and use data. We believe the criterion makes this clear and that no further changes are needed. In addition, invitational priority 4 indicates that the Secretary is particularly interested in applications in which States propose working together to adapt one State's statewide longitudinal data system so that it may be used, in whole or in part, by other States, rather than having each State build or continue building such systems independently. We will consider the commenter's request for the Department to help States expand their statewide longitudinal data systems as we develop plans to provide technical assistance to grantees.

Changes: None.

Accessibility of Data

Comment: Some commenters recommended adding language to criterion (C)(2) to ensure that data from a State's statewide longitudinal data system are accessible to key stakeholders. For instance, commenters suggested requiring a State to describe how its data are presented in a format and language that key stakeholders can access and understand, and are in a format that is easy to interpret and analyze. One commenter suggested that this notice compel a State to describe the format (*e.g.*, dashboards, reports, data downloads) and timelines in which it plans to provide the appropriate level of data to the different stakeholders, as well as its communication plans to ensure that stakeholders are aware this information is available. Some commenters were especially concerned that the data are accessible to communities and families, and in particular, that these stakeholders be provided support in understanding data and their uses to monitor children's progress and to hold districts and schools accountable.

A few commenters recommended that States and LEAs provide parents and the public with clear and concise annual reports that are useful and relevant to all constituencies. Commenters suggested topics that should be included in these reports, such as an overall assessment of education, reports on school quality, descriptions of progress in the core academic subjects, and indicators of the health and safety of children. One commenter suggested that States include in reports an opportunity-to-learn index to track data about the quality of State and local education systems. Another commenter suggested that reports provide teachers with data on the growth of their students on interim or summative assessments. A few commenters noted the importance of consultation with stakeholders after the data are reported, recommending that States and LEAs address in their application how they plan to disseminate and explain the data to stakeholders and how they will use community input to develop a plan of action to improve schools.

Discussion: We agree with commenters that data should be accessible to key stakeholders and that reports including those data should provide useful information to them. A State's application will be evaluated on the extent to which it has a high-quality plan to make sure its data are accessible to, and used to inform and engage key stakeholders. However, we decline to specify the exact format of the data, what might be included in reports, the specific input or consultation with stakeholders, or the timelines for sharing data given the unique nature of statewide longitudinal data systems and the differing needs of constituencies within States. These are all potential elements that States could include, however, in their Race to the Top plans.

Changes: None.

Comment: Some commenters suggested adding to the list of stakeholders in criterion (C)(2) other groups who should have access to data from statewide longitudinal data systems, such as families (instead of parents), youth-serving community-based organizations and value-added intermediaries, parent teacher associations, nonprofit organizations, workforce investment boards, business leaders, community groups, institutions of higher education involved in the preparation of new teachers, and early childhood program providers.

Discussion: The list of stakeholders in criterion (C)(2) is meant to be illustrative, but not exhaustive. States should make data available, consistent with FERPA, including 34 CFR Part 99, to any relevant stakeholder it deems appropriate. We do not, however, think it is necessary to add more examples of stakeholders to this criterion.

Changes: None.

Comment: Many commenters recommended that the Department require a State to address how public charter schools will have the same access to the information produced by these data systems as traditional public schools. Commenters believed that access to high-quality student-level data is critical to the successful operation of all public schools, including public charter schools, and is a key underpinning of any accountability based system. Another commenter requested that the Department clarify that charter schools must provide data to States.

Discussion: The Department agrees that charter schools should have the same access to the information produced by statewide longitudinal data systems as traditional public schools and States should ensure this access. Nothing in this notice would prohibit equal access to data for public charter schools. Public charter schools must provide States with any data specified by the State on the same basis as other public schools.

Changes: None.

Privacy Issues

Comments: Several commenters recommended that the Department require a State to provide assurances concerning the safeguards it has in place to protect the privacy of students and school employees as data about them are shared.

Discussion: States must consider how to protect student privacy as data are shared. Successful applicants that receive Race to the Top grant awards will need to comply with FERPA, and its implementing regulations 34 CFR Part 99, as well as any applicable State and local requirements. Because a State's compliance with FERPA is a requirement with which all recipients of Department funds must meet, we are removing the reference to compliance

with FERPA from the text of the selection criteria in (C). To remind States of their obligations under FERPA, we are including a footnote with a reference to the statute and implementing regulations in this section.

The Department agrees that teacher and principal privacy also must be protected. However, teacher and principal privacy is governed by State law. States, LEAs, and schools should consider their individual State privacy statutes when addressing these privacy issues in the establishment of a statewide longitudinal data system.

Changes: We moved the references to FERPA from the criteria in (C) to a footnote in that same section.

Comments: Several commenters stated that the Department should harmonize Federal policy to ensure that individual privacy protections are safeguarded in a way that does not interfere with timely and necessary information sharing. Some commenters expressed concern that States may face challenges in fully implementing statewide longitudinal data systems while meeting the requirements of FERPA unless current FERPA regulations regarding data-sharing among State agencies are revised. They recommended that the FERPA regulations be revised to explicitly allow for interagency data exchanges so the Administration's policy goals for Race to the Top can be realized.

Discussion: The Department recognizes that further clarity on FERPA and the America COMPETES Act will facilitate States' ability to develop and implement statewide longitudinal data systems that contain all 12 data elements outlined in the America COMPETES Act. The establishment of a statewide longitudinal data system with the necessary functionality to incorporate all 12 of the COMPETES Act elements, by itself, does not violate FERPA. The actual implementation of such a system (including the disclosure and redisclosure of personally identifiable information from education records) also does not violate FERPA provided that States follow FERPA's specific requirements. For example, the Department's current interpretation of FERPA is not a barrier to importing data into an educational agency from another State agency, since FERPA only applies to the personally identifiable information contained in education records. In the following discussions, in response to specific questions from commenters, we provide greater detail about how a statewide longitudinal data system may be established and implemented in compliance with FERPA. The Department is not aware of any other Federal laws that would prohibit or pose barriers to a State establishing a statewide longitudinal data system. To the extent that State laws present barriers to the development of a statewide longitudinal data system in compliance with the ARRA, the State will likely need to take specific actions to address those barriers. The Department will provide further clarification in this area as warranted.

Changes: None.

Comments: Some commenters asked the Department to clearly explain how post-secondary institutions, K–12, and pre-kindergarten-K education systems can share restricted student information.

Discussion: As stated previously, the establishment of a statewide longitudinal data system with the necessary functionality to incorporate all 12 of the COMPETES Act elements, including the sharing of data between pre-kindergarten-12 and postsecondary data systems, by itself, does not violate FERPA. States also may implement a statewide longitudinal data system that includes the disclosure and redisclosure of personally identifiable information from education records in a manner that complies with FERPA. In addition to complying with FERPA, any sharing of student data must also comply with the requirements of 34 CFR 104.42(b)(4) (the regulations implementing section 504 of the Rehabilitation Act), generally prohibiting postsecondary institutions from making pre-admission inquiries about an applicant's disability status.

We first address the question of the disclosure and redisclosure of personally identifiable information in the pre-kindergarten context. The disclosure of personally identifiable information from pre-kindergarten to LEAs is not affected by FERPA with respect to pre-kindergarten programs that do not receive funding from the Department, as FERPA does not apply to those programs. With respect to pre-kindergarten programs that receive funding from the Department, the non-consensual disclosure of personally identifiable information from the students' pre-kindergarten education records to LEAs is permitted under the enrollment exception in the FERPA regulations, provided that certain notification and access requirements are met. (20 U.S.C. 1232g(b)(1)(B); 34 CFR 99.31(a)(2) and 99.34).

The second issue raised by commenters involved the sharing of information between postsecondary institutions and SEAs. Similar to the pre-kindergarten context, the non-consensual disclosure of personally identifiable information from K–12 education records to a postsecondary institution is permitted under the enrollment exception, provided the notification and access conditions are met. Postsecondary institutions may disclose personally identifiable information to an SEA under the evaluation exception if the SEA has the authority to conduct an audit or evaluation of the postsecondary institution's education programs. (20 U.S.C. 1232g(b)(1)(C), (b)(3), and (b)(5); 34 CFR 99.31(a)(3) and 99.35). States that have not established the requisite authority may do so in a number of ways, such as: (1) Creating an entity in the State to house the statewide longitudinal data system and endowing that entity with the authority to conduct evaluations of elementary, secondary, and postsecondary education programs; or (2) granting authority at the SEA or IHE level to conduct evaluations of elementary, secondary and postsecondary education programs. States may grant authority through various vehicles, including for example, Executive Orders, regulations and legislation. In some States the formation documents for SEAs, IHEs or other educational entities may already grant the necessary authority; however, explicit statutory authority is not required by FERPA.

The Department recognizes that there is considerable variation among States' governance structures and laws, and that using this exception to obtain personally identifiable information from postsecondary institutions may be difficult. The Department is currently reviewing its regulations and policies in this area and will be in close communications with States over the next several months regarding these issues. Of course, the Department also is available, upon request, to provide States with technical assistance on how to implement a statewide longitudinal data system that meets the requirements of FERPA.

Changes: None.

Comment: A few commenters requested that the Department provide specific guidance about the de-identification process that all States must adhere to in order to share potentially identifiable information about students.

Discussion: It is not possible to prescribe or identify a single method to minimize the risk of disclosing personally identifiable information in redacted records or statistical information that will apply in every circumstance, including determining whether defining a minimum cell size is an appropriate means to protect the

confidentiality of aggregated data and, if so, selection of an appropriate number. This is because determining whether a particular set of methods for de-identifying data and limiting disclosure risk is adequate cannot be made without examining the underlying data sets, other data that have been released, publicly available directories, and other data that are linked or can be linked to the information in question. For these reasons, we are unable to provide examples of rules and policies that necessarily meet the de-identification requirements in 34 CFR 99.31(b). The releasing party is responsible for conducting its own analysis and identifying the best methods to protect the confidentiality of information from education records it chooses to release. We recommend that State educational authorities, educational agencies and institutions, and other parties refer to the examples and methods described in the notice of proposed rulemaking to amend its FERPA regulations that the Department published in the **Federal Register** on March 24, 2008 (73 FR 15574, 15584) (FERPA notice of proposed rulemaking) and refer to the Federal Committee on Statistical Methodology's Statistical Policy Working Paper 22, *http://www.fcsm.gov/working-papers/spwp22.html*, for additional guidance.

Further, as noted in the preceding paragraph and in the preamble to the FERPA NPRM, use of minimum cell sizes or data suppression is only one of several ways in which information from education records may be de-identified before release. Statistical Policy Working Paper 22 describes other disclosure limitation methods, such as ''top coding'' and ''data swapping,'' which may be more suitable than simple data suppression for releasing the maximum amount of information to the public without breaching confidentiality requirements. Decisions regarding whether to use data suppression or some other method or combination of methods to avoid disclosing personally identifiable information in statistical information must be made on a case-by-case basis.

With regard to issues with ESEA reporting in particular, determining the minimum cell size to ensure statistical reliability of information is a completely different analysis than that used to determine the appropriate minimum cell size to ensure confidentiality.

Changes: None.

Selection Criterion (C)(3): Using data to improve instruction (proposed Selection Criterion (B)(3)):

Comment: One commenter recommended that a State describe in its plan the State and LEA roles and responsibilities related to using data to improve instruction, including how the plan would ensure that LEAs are primarily responsible for creating instructional improvement systems with assistance and support from the State. One commenter recommended that the Department increase the explicit emphasis on adoption and implementation of local data and instructional improvement systems.

Discussion: Application requirement (e)(4) requires States to describe, for each Reform Plan Criteria that it chooses to address, the parties responsible for implementing the activities. We therefore do not feel it is necessary to specify in the criterion itself that a State should describe its roles and responsibilities and that of its LEAs. However, we agree with the commenters that criterion (C)(3)(i) concerns local instructional improvement systems, and we are revising it to clarify this. We are also clarifying that the plans under this criterion should include efforts to increase the acquisition and adoption of such systems.

Changes: Criterion (C)(3)(i) now begins, ''Increase the acquisition, adoption, and use of local instructional improvement systems.''

Comment: Some commenters suggested that a State be evaluated on the degree to which it can demonstrate collaboration and cooperation with and among LEAs. Several commenters recommended that the Department include an incentive for States and LEAs to learn from outstanding LEAs in data development and reporting in order to improve vertical alignment of the State's education system.

Discussion: As described elsewhere in this notice, States receiving Race to the Top funds, along with their LEAs and schools, are expected to identify and share promising practices, make work freely available to others and make data available in appropriate ways that comply with FERPA to stakeholders and researchers. Specifically, criterion (A)(1)(ii) provides for the evaluation of a State based on the extent to which the participating LEAs are strongly committed to the State's plans and to effective implementation of reform in the four education areas. Criterion (A)(2)(i)(b) asks the State to demonstrate how it will support participating LEAs in successfully implementing the education reform plans the State has proposed, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs accountable for progress and performance, and intervening where necessary. In addition, under criterion (C)(3)(i), a State will be evaluated on the extent to which it, in collaboration with its participating LEAs, has a high-quality plan to increase the LEAs' acquisition, adoption, and use of local instructional improvement systems that provide teachers, principals, and administrators with the information and resources they need to improve their instructional practices, decision-making, and overall effectiveness. This could include facilitating collaboration between LEAs. Given these existing criteria, we do not believe a change is necessary.

Changes: None.

Comment: One commenter suggested that the Department allow States to focus on early childhood care and development data systems exclusively, without penalty for not including K–12 instructional improvement systems.

Discussion: While we believe it is important for instructional improvement systems to include tools for improving early childhood care, we decline to make the commenter's suggested change. Section 14005(c) of the ARRA requires a State, when applying for a Race to the Top grant, to describe the status of the State's progress in each of the four assurance areas in section 14005(d), including improving the collection and use of data. We believe the assurance in the ARRA related to the use of data is intended to cover all levels of the educational system.

Changes: None.

Comment: Several commenters recommended revising criterion (C)(3)(i) to include other stakeholders, in addition to teachers and principals, who can benefit from using data to improve instruction, such as youth development professionals in after-school and summer programs, mentoring and after-school learning organizations, expanded learning time partners, early childhood providers, and program directors.

Discussion: We understand that there are other stakeholders outside of the school who play critical roles in education. Criterion (C)(2) addresses how data from a statewide longitudinal data system can be used by a wide range of stakeholders, whereas criterion (C)(3)(i) is focused on how data are specifically used in instructional improvement systems to improve instructional practices, decision-making, and overall effectiveness during the school day. We believe the list of stakeholders in criterion (C)(3)(i) is appropriate given this focus, therefore, we do not believe it is necessary to

revise this criterion. However, nothing in this notice would prevent a State from specifying in its plan additional stakeholders who may use instructional improvement systems.

Changes: None.

Comment: Some commenters stated that, in addition to making data available, there must also be an equal focus on building the capacity of educators and school leaders to analyze and use this information. They argued that a State should describe how it will support its LEAs in providing effective, collaboratively designed and research-based professional development, including pre-service training to teachers, principals and administrators on how to analyze and use these data. One commenter suggested that professional development opportunities include a focus on using multiple sources of information to assess student academic performance; using a variety of strategies to analyze data; using data to identify barriers for success, design strategies for improvement, and plan daily instruction; benchmarking successful schools with similar demographics to identify strategies for improvement; and, creating a school environment that makes data-driven decisions.

One commenter suggested that a State should articulate the means by which it will require educators seeking certification or re-certification to receive training and show competence in the analysis, interpretation, and use of data. Several commenters suggested that time during the school day should be dedicated to data analysis and action planning for teachers. Another commenter suggested that a State be required to explain how it will promote an environment (*e.g.*, a climate of autonomy) in which teachers, principals, and administrators have the support and conditions to make decisions based on the results of the data analyses.

Discussion: We agree with commenters that States must support their LEAs in providing effective professional development. We are adding a new criterion (C)(3)(ii) to encourage States to support participating LEAs and schools that are using local instructional improvement systems to provide effective professional development to teachers, principals, and administrators on how to use these systems and the resulting data to support continuous instructional improvement. We are also clarifying, in criterion (C)(3)(i), that the purpose of instructional improvement systems is to provide educators with the resources they need, as well as the information they need. In addition, criterion (D)(5) addresses the need for high-quality professional development. The Department also encourages States to utilize current Federal education funding, for example Title II–A Improving Teacher Quality State grants, as a funding mechanism to provide further professional development to teachers in the use of data in the classroom.

We do not believe we should require a State to articulate the means by which it will require educators seeking certification or re-certification to receive training and show competence in the analysis, interpretation, and use of data. A State may address this issue in its plan if it chooses.

Changes: Criterion (C)(3)(ii) has been added to provide that a State will be evaluated based on the extent to which it has a high-quality plan to support LEAs and schools that are using instructional improvement systems (as defined in this notice) in providing effective professional development to teachers, principals, and administrators on how to use these systems and the resulting data to support continuous instructional improvement. As a result of this addition, proposed criterion (C)(3)(ii) has been redesignated (C)(3)(iii). We have also revised criterion (C)(3)(i) to clarify that instructional improvement systems should provide educators with the ''information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness.''

Comment: One commenter did not support making data available and accessible to researchers. This commenter stated that large urban districts are deluged with requests for information and access to data, which diverts time and resources from student-centered activities, and that this misconstrues the purpose of Race to the Top to improve student achievement and close achievement gaps. Rather than making data available to researchers for the purposes specified in criterion (C)(3)(iii), this commenter suggested that the data be available instead to evaluation contractors and State and Federal officials.

Discussion: We appreciate the commenter's concern about the resources needed to share data with researchers. However, we believe it is very important that researchers, consistent with FERPA, including 34 CFR Part 99, be able to conduct studies to improve instruction. We therefore decline to make the recommended change to make the data available only to evaluation contractors and State and Federal officials.

Changes: None.

Comment: Many commenters suggested that the Department clarify that instructional improvement systems should identify students who are off-track to graduation or have dropped out of school. These commenters said that early warning indicators can be used by LEAs and States to develop and implement options that will keep students on track, or put them back on track, to graduation.

Discussion: We agree with the commenter that instructional improvement systems should provide early warning indicators about students at risk of educational failure and are revising the definition of *instructional improvement systems* accordingly. We also are revising criterion (C)(3)(iii) to be consistent with criterion (C)(3)(ii) and to clarify that the data from instructional improvement systems, together with statewide longitudinal data system data, should be made available and accessible to researchers.

Changes: We have revised the definition of *instructional improvement systems* to clarify that such systems may also integrate instructional data with other student-level data such as attendance, discipline, grades, credit accumulation, and student survey results to provide early warning indicators of a student's risk of educational failure. We have also revised criterion (C)(3)(iii) to clarify that the data from ''instructional improvement systems,'' together with statewide longitudinal data system data, should be made available and accessible to researchers.

Comment: One commenter recommended that the Department clarify the definition of *instructional improvement systems* to reference use of technology-based tools and other strategies to systemically manage cycles of continuous instructional improvement. A few commenters suggested that instructional improvement systems should be research-based. Some commenters suggested that the definition of this term should state that the purposes of these systems are to: Ensure that every student has access to instructional materials that are current and aligned to these standards; differentiate instruction; provide individualized learning; gather input and feedback from stakeholders; translate data into knowledge; drive innovation; use knowledge to create networks of best practices; and inform decision-making.

Discussion: In response to these comments, we are clarifying the

definition of *instructional improvement systems.* However, we are not specifying additional purposes of instructional improvement systems, as this could inadvertently discourage States and LEAs from developing new and innovative strategies for addressing students' learning needs.

In response to the commenters who indicated that instructional improvement systems should be research-based, we believe that much research has been done on the effectiveness of using data to inform instructional decisions. Instructional improvement systems provide teachers and instructional leaders with the evidence they need to make informed instructional decisions. Therefore, such systems are a critical element of any classroom-based, evidence-driven approach to instruction.

Changes: We have revised the definition of *instructional improvement systems* to reference that such systems are ''technology-based tools and other strategies that provide teachers, principals, and administrators with meaningful support and actionable data to systemically manage continuous instructional improvement * * *.'' In addition, we have included summative assessments as an additional example of information gathering on instructional improvement.

Performance Measures and Minimum Evidence for Selection Criteria (C)(1), (C)(2), and (C)(3)

Comment: Several commenters recommended specific performance measures for criteria (C)(1), (C)(2), and (C)(3). For instance, one commenter recommended that data performance measures include indices or rankings on districts' and schools' actual provision of basic resources and opportunities that the ARRA contemplates. Another commenter encouraged the Department to include a performance measure that States must ensure data are in a format and in a language that families can access and understand, consistent with the myriad roles parents are required to play under the ESEA. Another commenter recommended that performance measures for criterion (C)(2) include the results of surveys of stakeholders. One commenter suggested that performance measures be used to evaluate the extent to which the output from the statewide longitudinal data system is geared to stakeholder needs.

Discussion: A State may propose its own performance measure(s) for the section on Data Systems to Support Instruction. Rather than requiring particular performance measures for this section, we are choosing to give a State the flexibility to define its own measures that are tailored to the context of its statewide longitudinal data system.

Changes: None.

Comment: One commenter suggested that criterion (C)(3)(iii) require minimum evidence to ensure that competing applications are judged in a consistent manner. Another commenter recommended that minimum evidence should include the adoption and publication of procedures for the request and release of longitudinal data for research purposes. In addition, this commenter suggested that evidence include the State's partnerships with national researchers to evaluate the effectiveness of the instructional practices in each participating LEA.

Discussion: We believe that the basic elements of a plan, as specified in Application Requirement (e), should be sufficient to yield consistent judging on this criterion. We therefore decline to require the specific minimum evidence suggested by the commenters.

D. Great Teachers and Leaders

Selection Criterion (D)(1): Providing High-Quality Pathways for Aspiring Teachers and Principals (Proposed Criterion (C)(1)):

Comment: Many commenters recommended changes to the proposed definition of *alternative certification routes.* Two commenters suggested changing the term to ''alternative routes to certification'' to be consistent with the terminology in criterion (D)(1). Some commenters recommended that the definition refer to school districts and nonprofit organizations as providers of programs offering alternative routes to certification. A few commenters sought to ensure that programs offering alternative routes to certification be selective in accepting candidates into their programs. Many commenters objected to defining an alternative route to certification as one that includes clinical or student teaching experience, claiming that such experiences are characteristic of traditional preparation programs, and that other kinds of training, such as intensive mentoring support during the first months of teaching, are more valuable than clinical or student teaching experiences. However, one commenter supported field-based experiences for principals, and other commenters stated that administrators seeking alternative routes to certification should have prior teaching experience.

Commenters also had different views on the level and type of coursework that should be part of alternative routes to certification. One commenter supported alternative routes to certification involving limited amounts of coursework, one commenter disagreed, and a third commenter specifically recommended requiring substantive coursework in reading and math content and teaching methods.

Several commenters recommended that the definition include a requirement that all alternative routes to certification ensure that graduates of such programs have the skills to address the needs of all students. One commenter expressed concern that alternative routes to certification, given their shortened timeframe, are not designed to ensure that teachers develop the skills needed to effectively instruct students with disabilities. The commenter recommended strengthening both traditional and alternative route preparation programs so that all teachers are more skilled in teaching students with disabilities.

Two commenters sought changes aimed at ensuring that graduates of alternative routes to certification receive the same level of certification as teachers and leaders who complete traditional preparation programs. Similarly, a few commenters recommended that the Department require States to verify that teachers certified through alternative routes to certification are treated equally and fairly in hiring under all State regulations and statutes, while another commenter suggested sanctioning States that treat alternative routes to certification as a ''route of last resort.'' On the other hand, one commenter stated that teachers certified through alternative routes generally should not be assigned to high-need schools because of their limited experience.

Discussion: In response to these comments, the Department is making a number of changes to the definition of *alternative certification routes.* First, we agree that the various terms used in the Race to the Top program should be consistent; therefore, we are changing the proposed term ''alternative certification routes'' to ''alternative routes to certification'' in this notice. We also agree that the NPP was unclear regarding providers of alternative routes to certification, and are changing the definition to clarify that qualified providers of States' teacher and administrator preparation programs include both institutions of higher education and other providers that operate independently from institutions of higher education. In addition, we agree that providers of alternative routes to certification, as with all preparation programs, should be selective in enrolling individuals in their programs

and, therefore, are changing the definition to ensure that qualified providers of teacher and principal preparation programs are selective in the candidates they accept.

The Department believes it is important to provide prospective teachers and principals with direct school and classroom experiences as part of their preparation. Because alternative routes to certification are accelerated and vary in delivery models, there are a variety of ways, in addition to clinical or student teaching experiences, to provide this experience, such as through practicum and job embedded experiences, coupled with intensive mentoring or support during the first months of teaching, as suggested by the commenters. We agree with the commenters and are revising the definition to refer to school-based experiences and ongoing support such as effective mentoring and coaching.

As to the extent of the coursework required by programs providing alternative routes to certification, the Department believes that States are in the best position to determine the courses and coursework that could be reduced or limited as a part of any alternative route to certification program, consistent with the needs of local schools, the accelerated nature of alternative routes to certification, and the wide range of previous education and experience that candidates bring to these programs. The Department, therefore, declines to change the definition to specify the amount or type of coursework that must be included in programs providing alternative routes to certification. We are specifying in the final definition, however, that alternative routes to certification should include standard features such as demonstration of subject-matter mastery and high-quality instruction in pedagogy.

We also believe that programs providing alternative route to certification should not award levels of certification that are different from the certifications available from traditional preparation programs, which could limit the opportunities for teachers to teach and leaders to lead; rather, alternative routes to certification programs, whether for teachers or principals, should be considered different pathways to certification with the same rigor as other State-approved routes. The Department's view is that States, LEAs, and schools should treat individuals prepared through State-approved alternative routes to certification in the same manner as those prepared and certified through traditional teacher and principal preparation programs, and we are changing the definition to reflect this view.

The Department agrees that there is a need to strengthen preparation programs to prepare teachers and principals to meet the needs of all students. We are revising the definition of *alternative routes to certification* to clarify that such routes should prepare teachers and principals to address the needs of all students, including English language learners and students with disabilities.

Changes: We have changed the term ''alternative certification routes'' to ''alternative routes to certification.'' We also have made the following changes: (1) Revised clause (a) to clarify that ''other providers'' refers to ''other providers operating independently from institutions of higher education''; (2) added a new clause (b) to clarify that alternative routes to certification programs must be selective in accepting candidates; (3) re-designated proposed clause (b) as new clause (c) and changed ''clinical/student teaching experiences'' to ''supervised, school-based experiences and ongoing support such as effective mentoring and coaching;'' (4) re-designated proposed clause (c) as new clause (d); and (5) re-designated proposed clause (d) as new clause (e) and revised it to clarify that upon completion, programs providing alternative routes to certification must award the same level of certification that traditional preparation programs award upon completion. We have also revised the definition of *alternative routes to certification* to clarify that such routes should include ''standard features such as demonstration of subject-matter mastery, and high-quality instruction in pedagogy and in addressing the needs of all students in the classroom including English language learners and students with disabilities.''

Comment: Many commenters suggested that the Race to the Top competition places too much emphasis on alternative routes to certification and recommended that the Department eliminate the focus on alternative routes and expand the criterion to include multiple routes. Several commenters expressed concern that alternative routes to certification are not as effective as traditional routes. Those commenters argued that alternative routes to certification do not provide the necessary skill sets to impact teaching and learning, and do not attract educators with the necessary background to provide instructional leadership. A few commenters questioned whether criterion (D)(1) is necessary. One commenter recommended that the Department not require States to require alternative routes for principals. A few commenters argued that research shows that alternative routes have not been as effective as traditional programs. One commenter suggested that the Department focus on the quality of pathways to certification rather than the number of those pathways. Multiple commenters suggested that States develop common standards of performance for those entering the profession, regardless of the route taken. One commenter recommended that the Department establish safeguards to ensure that alternative routes successfully prepare candidates to meet a consistent set of standards that govern teacher licensure. A few generally supportive commenters recommended monitoring these routes to ensure quality programs, and requiring States to provide evidence of a quality control process for their certification programs.

Discussion: The Department agrees that we should encourage the creation of high-quality pathways for aspiring teachers and principals through both traditional and alternative routes to certification. We are therefore adding criterion (D)(1)(iii), under which States will be rewarded for having a process for monitoring, evaluating, and identifying areas of teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.

At the same time, we believe it is important to retain the original substance of proposed criterion (C)(1), regarding alternative routes to certification, for two reasons. First, to increase the supply of high-quality talent entering the field of education we must reduce the barriers to entry into the education profession, especially for high-achieving individuals, such as individuals who have changed careers and recent college graduates who have the potential to be good educators. Alternative routes to certification are typically optimized for such new entrants into the profession. Second, the Secretary believes that competition between traditional and alternative certification providers will help increase the quality of all programs. To provide clarity, and to emphasize the importance of alternative routes actually being in use, we are separating proposed criterion (C)(1) into two criteria, (D)(1)(i) and (D)(1)(ii).

To further support the notion that all teacher and administrator preparation programs must train candidates to become high-performing professionals, we proposed in the NPP and establish in this final notice, criterion (D)(4). This

criterion is intended to shine a light on the quality of all preparation programs in the State by providing both potential candidates and schools recruiting graduates with valuable information about which programs are actually best preparing candidates for success. We are also adding criterion (D)(4)(ii), which encourages States to expand preparation and credentialing options and programs that are successful at producing effective teachers and principals.

Together, we believe that criteria (D)(1) and (D)(4) provide a combination of rewards, incentives, and transparency that could result in significant quality improvements in educator preparation and recruitment.

Finally, we do not believe we should remove principals from this criterion. Well-prepared principals are critical to providing the instructional leadership necessary to support teaching and learning in our schools. We know that chronically underperforming schools too often have poor leadership, and that poor leadership drives away good teachers. The focus on principal preparation is therefore critical.

Changes: Criterion (D)(1) now reads, ''Providing high-quality pathways for aspiring teachers and principals: The extent to which the State has—

(i) Legal, statutory, or regulatory provisions that allow alternative routes to certification (as defined in this notice) for teachers and principals, particularly routes that allow for providers in addition to institutions of higher education;

(ii) Alternative routes to certification (as defined in this notice) that are in use; and

(iii) A process for monitoring, evaluating, and identifying areas of teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.''

In addition, we have added criterion (D)(4)(ii), which encourages States to ''expand preparation and credentialing options and programs that are successful at producing effective teachers and principals (both as defined in this notice).''

Comment: One commenter recommended including an additional requirement that States demonstrate the extent to which their alternative routes for STEM teachers draw upon nationally recognized models.

Discussion: The Department places great emphasis in Race to the Top on STEM, as evidenced by the fact that we have established a competitive preference priority for STEM proposals in this notice. We also recognize the importance of using models that have shown success in raising student achievement in STEM areas. However, we do not believe it is necessary to require that States demonstrate the extent to which their alternative routes to certification for STEM teachers utilize nationally recognized models. We expect that all alternative routes to certification, including those for STEM teachers, would include standard features such as demonstration of subject-matter mastery, and high-quality instruction in pedagogy and in addressing the needs of all students in the classroom including English language learners and student with disabilities. As previously stated, we are adding language to the definition of *alternative routes to certification* that clarifies this point.

Changes: None.

Comment: Two commenters recommended that a portion of the Race to the Top funds be used to promote new approaches to alternative routes to certification, incentivizing existing programs to adopt research-based and effective strategies.

Discussion: The Department recognizes that there are many research-based, innovative practices that can help teachers, principals, and others improve student achievement. Nothing in this notice prevents States from engaging in or supporting such innovation. The Department notes that it recently announced proposed priorities, requirements, definitions, and selection criteria for the Investing in Innovation Fund. Established under section 14007 of the ARRA, the Investing in Innovation fund will provide competitive grants to expand the implementation of innovative practices that show the promise of significantly improving K–12 student achievement for high-need students, as well as help close the achievement gap, and improve teacher and principal effectiveness. The grants will allow eligible entities to expand their work and serve as models of best practices. LEAs and nonprofit organizations interested in developing new approaches to improve teacher and principal effectiveness in meeting the needs of high-need students and scaling-up such strategies may wish to consider applying for an Investing in Innovation grant.

Changes: None.

Comment: One commenter recommended that, instead of asking States to show the extent to which they encourage alternative routes to certification, States should be required to demonstrate the extent to which teacher preparation programs partner with high-need LEAs and schools to meet the specific personnel needs of those LEAs and schools.

Discussion: The Department agrees that creating partnerships between effective teacher preparation programs and high-need LEAs and schools could be an effective strategy to meet personnel needs. As discussed earlier, we are adding criterion (D)(1)(iii), which is focused on identifying areas of teacher and principal shortage and preparing teachers and principals to fill them. States could address part of this criterion by establishing the partnerships suggested by the commenter.

Changes: None.

Selection Criterion (D)(2): Improving Teacher and Principal Effectiveness Based on Performance (Proposed Criterion (C)(2)):

Comment: Several commenters recommended requiring that teacher and principal evaluations be conducted at the local level and that States only provide support rather than be directly involved in the evaluation process. Many commenters also stated that the consequences of those evaluations (*e.g.*, performance pay) should also be decided at a local level. Those commenters argued that local school systems are better able to identify effective and ineffective educators, allowing for meaningful comparisons and interpretations across schools. Another commenter recommended adding an assurance encouraging States to provide local control to principals over issues such as hiring, leadership team appointments, school-based funding, and scheduling flexibility. Two commenters suggested replacing ''differentiating'' in the title of criterion (D)(2) (proposed criterion (C)(2)) with ''evaluating.'' Other commenters stated that the focus of this criterion should be primarily on improving the performance of teachers and principals in order to improve student achievement.

Discussion: It was the Department's intent that LEAs would be the entities conducting teacher and principal evaluations and making informed decisions, based on the evaluations, regarding teacher and principal development, compensation, promotion, retention, tenure, and removal. We are revising criterion (D)(2) to clarify that participating LEAs (as defined in this notice) should perform these functions and States should have a plan for ensuring that participating LEAs do so.

While differentiating performance is an important component of evaluation systems, we agree that criterion (D)(2) is focused on improving teacher and principal effectiveness, and we are changing the title to make this clear. We

also have made the development of evaluation systems (rather than differentiation) the centerpiece of this criterion by revising (D)(2) to encourage the design and implementation of high-quality evaluation systems, and to promote their use for feedback, professional improvement, and decision-making.

Changes: We have revised criterion (D)(2) to clarify that the State's role is to ''ensure that participating LEAs'' perform the functions described in criterion (D)(2). We have also replaced ''differentiating'' with ''improving'' in the title of criterion (D)(2). We have also reframed this criterion so that it focuses on the creation and use of evaluation systems.

Comment: One commenter recommended changing criterion (D)(2)(i) (proposed criterion (C)(2)(a)) to read ''Establish and provide a clear description of a system to measure impact on student growth (as defined in this notice) that uses a rigorous statistical approach.''

Discussion: We accept the commenter's suggested language, in part. We do not, however, believe it is necessary to include in criterion (D)(2)(i) that the measure of student growth uses a rigorous statistical approach. The definition of *student growth* in this notice already provides that the approaches used to measure growth must be rigorous. We are changing criterion (D)(2)(i) to reflect the first part of the commenter's suggested language. We are also clarifying that growth should be measured for each individual student.

Changes: Criterion (D)(2)(i) has been revised to read, ''Establish clear approaches to measuring student growth (as defined in this notice) and measure it for each individual student.''

Comment: One commenter asked for clarification regarding the word ''overall'' in the proposed definition of an *effective principal.*

Discussion: The word ''overall'' in the definition of *effective principal* refers to the performance of all of the students in the school, taken as a whole. The analogue from the ESEA is the ''all students'' group used in AYP determinations. We are removing the reference to section 1111(b)(2)(C)(v)(II) of the ESEA from the definition of *effective principal* because, as noted elsewhere, a new paragraph (g) in the Application Requirements section of this notice explains that references to ESEA subgroups throughout the notice are the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA.

Changes: We have removed the parenthetical ''(described in section 1111(b)(2)(C)(v)(II) of the ESEA)'' from the definition of *effective principal.*

Comment: Many commenters stated that the proposed definition of *effective principal* relies too heavily on standardized test scores as the sole measure of effectiveness. Several commenters recommended that the definition be changed to require States to expand the definition beyond student growth to include multiple measures such as effectiveness as a leader; effective fiscal management; student, community, and parental engagement; effective school safety; evidence of providing a supportive teaching and learning environment; discipline; college matriculation rates; college readiness rates; and data on staff turnover rates and working conditions. One commenter suggested balancing the evaluation of principals by including data from State assessments and other data on student learning in all core academic subjects, so as to avoid ''narrowing the curriculum.'' Other commenters emphasized the principal's role in creating a positive school climate, engaging students, increasing the number of effective teachers, continuous improvement, connecting learning to solving community problems, implementing school-wide practices that drive substantial student achievement gains, and preparing students for success in work and post-secondary education. One commenter suggested supplementing the definition to state that an *effective principal* is one who demonstrates growth in the number and percentage of effective and highly effective teachers within the school through demonstrated success in strategies such as teacher recruitment and selection, retention, high quality data-driven professional development, feedback and coaching to individual teachers, counseling out, and fair dismissals.

Discussion: The Department believes that student growth must be a significant factor in determining principal effectiveness. However, we agree with commenters that data on student growth should not be used as the sole means of evaluating principals and that States, LEAs, and schools should supplement student growth with other measures of effectiveness. Accordingly, we are revising the definition of *effective principal* to require that they do so. While we cannot include in the definition all of the measures recommended by the commenters, we believe it is important to include several examples for illustrative purposes and are adding examples of the following measures in the definition of *effective principal:* high school graduation rates and college enrollment rates, as well as evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement. We also are making minor changes to the definition for purposes of clarification.

Changes: We have changed the definition of *effective principal* as follows: (a) Replaced ''States may supplement this definition as they see fit'' with ''States, LEAs, or schools must include multiple measures;'' (b) added ''Supplemental measures may include, for example, high school graduation rates and college enrollment rates, as well as evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement;'' and (c) replaced ''so long as principal effectiveness is judged, in significant measure by student growth'' with ''provided that principal effectiveness is evaluated, in significant part, by student growth.''

Comment: One commenter supported the definition of *effective teacher* and agreed that student growth should be used as a measure of teacher effectiveness along with other supplemental measures. However, many commenters stated that the proposed definition relies too heavily on standardized test scores and recommended requiring supplemental measures. Another commenter recommended giving States the flexibility to define effective teachers using models that make sense in their States. Several commenters suggested that the definition include examples of supplemental measures such as using research-based teaching practices, implementing practices that have been documented in the classrooms of teachers who are driving substantial student achievement gains, and using feedback and student performance data to improve teaching.

Discussion: As noted in our response to commenters' concerns that student growth data should not be used as the sole means to evaluate principals, we agree with commenters that States, LEAs, and schools should include multiple measures in determining teacher effectiveness. We are, therefore, changing the definition to require States, LEAs, or schools to take into account data on student growth as a significant measure of teacher effectiveness, but also to include multiple measures. We also are adding multiple observation-based assessments of teacher performance as an example of

a supplemental measure in the definition of *effective teacher.*

Changes: We have defined *effective teacher* to mean ''a teacher whose students achieve acceptable rates (*e.g.,* at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance.''

Comment: One commenter recommended that the definition of *effective teacher* be changed to require student growth to be a ''predominant measure,'' rather than a ''significant measure,'' of teacher effectiveness. The commenter noted that using student growth as a ''significant measure'' for judging teacher effectiveness would allow other factors to outweigh a teacher's impact on student achievement.

Discussion: We believe that having student growth as a significant factor in determining teacher effectiveness is a sufficiently rigorous standard. The revised definition also provides States, LEAs, and schools with more flexibility in determining the appropriate use of supplemental measures without outweighing the importance of teachers' impact on student growth in determining teacher effectiveness.

Changes: None.

Comment: Several commenters suggested that the definition of *effective teacher* acknowledge and address the need to mentor and support new teachers who disproportionately work in struggling schools.

Discussion: We agree that professional development, including mentoring and coaching, are important aspects of teacher effectiveness. For this reason, criterion (D)(2)(iv)(a) focuses on using evaluations to inform decisions regarding developing effective teachers and principals, including by providing relevant coaching, induction support, and/or professional development. Criterion (D)(5) also provides for evaluation of the extent to which a State has a high-quality plan for its participating LEAs to provide effective, data-informed professional development, coaching, induction, and common planning and collaboration time to teachers and principals. We believe these criteria address the need for mentoring and other forms of professional development for teachers and therefore, are not changing the definition of *effective teacher* in the manner recommended by the commenter.

Changes: None.

Comment: One commenter strongly recommended including high school graduation rates as a measure to evaluate teacher effectiveness in order to provide a disincentive to ''creaming'' students and to signal the importance of preventing students from dropping out.

Discussion: We believe it could be misleading to include high school graduation rates as a required or supplemental measure of teacher effectiveness, because, more than other measures, graduation rates typically reflect the work of many teachers and school administrators. Accordingly, we have included graduation rates as an example of a supplemental measure of effectiveness in the definitions of *effective principal* and *highly effective principal.*

Changes: None.

Comment: One commenter recommended that *effective teacher* be defined as a teacher whose students, overall and for each subgroup, demonstrate acceptable rates of student growth. The commenter noted that the definition of *effective principal* refers to ''each subgroup'' and expressed concern that the omission of ''each subgroup'' in the definition of *effective teacher* could be misinterpreted to mean that teachers could be deemed effective (or highly effective) even if their students from different subgroups are not making sufficient learning gains.

Discussion: The Department included the performance of subgroups in the definitions of *effective principal* and *highly effective principal* because there would generally be a sufficiently large number of students in a particular subgroup at the school level to evaluate principal effectiveness. However, it is generally unlikely that a class would have a sufficient number of students in any particular subgroup on which to base an evaluation of a teacher's effectiveness.

Changes: None.

Comment: Some commenters recommended that, instead of defining *effective teacher,* this notice should encourage the use of proven tactics for improving teacher effectiveness (*e.g.*, lowering class sizes or innovative solutions for addressing the challenges teachers face). Other commenters suggested encouraging States to develop and use performance assessments of teachers that reliably and validly assess the use of teaching practices known to be associated with student achievement gains and to experiment with a range of strategies to incorporate evidence of student learning and accomplishment into teacher evaluation tools. One commenter recommended that educators should use research data and scientific recommendation as a basis for instruction and developing appropriate methods.

Discussion: Throughout this final notice, the Department encourages States, LEAs, and schools to use proven strategies for improving teacher effectiveness and addressing other challenges teachers face. For example, Invitational Priority 6—School-Level Conditions for Reform, Innovation, and Learning focuses on providing schools with flexibility and autonomy, such as creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement, and implementing strategies to effectively engage families and communities in supporting the academic success of their students. Criterion (C)(3) focuses on using data to improve instruction by increasing the acquisition, adoption, and use of local instructional improvement systems that provide teachers and principals with the information they need to inform and improve instructional practices; supporting LEAs and schools that use these systems in providing professional development on how to use these systems to support instructional improvement; and making data available and accessible to researchers so they can evaluate the effectiveness of instructional materials, strategies, and approaches. Criteria (D)(2)(iv)(a) and (D)(5) emphasize that the supports provided to teachers and principals should be ongoing and informed by data and evaluations.

Changes: None.

Comment: One commenter expressed concern that data on student growth are available only for the limited number of subjects included in the annual assessments required under the ESEA. The commenter recommended that we clarify that alternative measures of student performance should be used for teachers teaching subjects that are not tested under the ESEA. Another commenter asked how teacher effectiveness would be determined when there are no data on student growth, such as might be the case for novice teachers and teachers teaching subjects or grades that are not tested under the ESEA.

Discussion: As defined in this notice, the term *student growth* means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. In turn, the definition of *student achievement* includes alternative measures of student performance for

non-tested grades and subjects. As noted elsewhere, we are adding, in the definition of *student achievement*, a number of examples of alternative measures of student performance for both tested and non-tested grades and subjects and clarifying that for tested grades and subjects, student achievement must include a student's score on the State assessments required under the ESEA (which will allow for the determination of student growth) and may include other measures of student learning as well. Therefore, we do not believe that additional language needs to be added to the definition of *effective teacher*.

Changes: None.

Comment: One commenter expressed concern that the definition of *effective teacher* equates effectiveness with advancing students one grade level in an academic year. The commenter stated that this approach ignores the fact that research has not identified a standard for student gains in a given school year in a given subject. Another commenter requested clarification regarding the meaning of ''at least one grade level in an academic year'' as used in the definition of *effective teacher*. Another commenter inquired whether States that use summative tests to measure one or more years of student growth would need to change their assessment system.

Discussion: We included ''at least one grade level in an academic year'' as an example of an acceptable rate of student growth in the definition of *effective teacher* (and *effective principal*). We recognized that this example of an acceptable rate of student growth may not be appropriate for all students and therefore, did not include it as a requirement but rather as an example. We believe States, LEAs, and schools should determine what constitutes an acceptable rate of student growth for purposes of assessing teacher (or principal) effectiveness.

Changes: None.

Comment: As with the definition of *effective principal*, many commenters expressed concern about using student growth as the sole measure for defining a *highly effective principal*. Some commenters stated that a good measure of a *highly effective principal* is success in attracting, developing, and retaining effective teachers. Another commenter, however, stated that significant growth in student achievement would suffice as evidence of a highly effective principal's ability to improve teacher effectiveness.

Discussion: As noted earlier, the Secretary believes that student growth must be included as a significant factor in evaluating principal and teacher effectiveness. However, he understands and appreciates commenters' concerns that student growth should not be used as the sole means to evaluate principals and teachers. Therefore, we are changing the definition of *highly effective principal*, consistent with the changes to the definition of *effective principal*, to require States, LEAs, or schools to take into account multiple measures, in addition to data on student growth, in defining a *highly effective principal*. We agree with commenters that success in attracting, developing, and retaining high numbers of effective teachers would be a good measure of a *highly effective principal* and are adding this to the definition along with other examples of supplemental measures. We also are making minor technical changes for clarity and removing the statutory reference to section 1111(b)(2)(C)(v)(II) of the ESEA, regarding student subgroups. We are removing the statutory reference to the ESEA because, as noted elsewhere, a new paragraph (g) in the Application Requirements section of this notice explains that references to ESEA subgroups throughout the notice are the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA.

Changes: We have changed the definition of *highly effective principal* to read as follows: ''*Highly effective principal* means a principal whose students, overall and for each subgroup, achieve high rates (*e.g.*, one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.''

Comment: One commenter noted that the definition of *highly effective principal* refers to ''high rates of student growth'' and recommended modifying the definition of *student growth* accordingly.

Discussion: We believe that States' definition of *highly effective principal* should demonstrate high rates of student growth for their students overall, and for each subgroup. The Department believes that one and one-half grade levels of growth in an academic year is a good example of a high rate of student growth. We recognize, however, that this example of ''high rates of student growth'' may not be appropriate for all students. We included ''one and one-half grade levels in an academic year'' as an example, not a requirement. We believe States, LEAs, and schools should determine what constitutes a high rate of student growth, as the definitions of *highly effective principal* (and *highly effective teacher*) clearly permit. We, therefore, do not believe it is necessary to revise the definition of *student growth*, as requested by the commenter.

Changes: None.

Comment: One commenter suggested that successful completion of a State-approved principal licensure program that builds the knowledge, skills, and attitudes to effectively lead people, lead learning, and manage school operations should be included as a measure of a highly effective principal.

Discussion: States, LEAs, and schools may choose to use successful completion of a State-approved principal licensure program as a supplemental measure of a highly effective principal. However, we decline to include it as an example of a supplemental measure in the definition of a *highly effective principal* because we believe that principal effectiveness is best determined by measuring results and outcomes.

Changes: None.

Comment: Some commenters commended the Department for focusing the definition of teacher effectiveness on student achievement and growth. Other commenters recommended adding language that would allow States and LEAs to supplement student growth with multiple measures determined on the State or local level. Other commenters suggested that States and LEAs be required to supplement their definitions of student growth with multiple measures. Commenters also recommended that such measures include the use of evidence-based practices for improving student achievement, the use of feedback and professional development opportunities, and leadership activities such as mentoring or leading an instructional community.

One commenter did not believe the definition should include a teacher's commitment and ability to use feedback and performance data to improve instructional practices. The commenter reasoned that a teacher who improves student achievement is using (1) practices that are both effective for student learning and healthy for social and emotional development of students and (2) feedback to improve practice. One commenter urged the Department

to have ''an equity focus on those current highly qualified teacher proxies that have some research base grounded in student achievement: Novice and out of field teaching.'' Another commenter suggested that the definition provide individual school districts with the flexibility to establish policies to determine whether a teacher is highly effective in order to ''recognize that a wide range of conditions can vary from district to district that would make a state-wide definition inappropriate for evaluation, promotion, or compensation purposes.''

Discussion: We agree with commenters that States, LEAs, and schools should be required to supplement their definition of a *highly effective teacher* with multiple measures. We are, therefore, revising the definition to require that States, LEAs, or schools include multiple measures. In addition, we are including examples of supplemental measures that States, LEAs, and schools might use, including leadership roles.

Changes: We have revised the definition of *highly effective teacher* to mean a teacher whose students achieve high rates (*e.g.*, one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional learning communities) that increase the effectiveness of other teachers in the school or LEA.

Comment: One commenter suggested that adopting the definitions of *effective teacher* and *highly effective teacher* in the NPP would be at odds with the value-added system prescribed in the State Fiscal Stabilization Fund.

Discussion: The definitions of *effective teacher* and *highly effective teacher* in this notice are not at odds with the requirements of the State Fiscal Stabilization Fund. The Race to the Top definitions are broad enough to give States, LEAs, and schools sufficient flexibility to determine the approach to measuring growth that works best for them, giving them a variety of ways to comply with the requirements of the State Fiscal Stabilization Fund.

Changes: None.

Comment: One commenter suggested that standardized tests are not created to measure teacher effectiveness and therefore are an invalid measure of effectiveness.

Discussion: We believe students' standardized test scores are one of many measures that can be used to determine student growth. However, we recognize that teacher effectiveness should not be determined solely on the basis of standardized test scores, which is why we are requiring, in this final notice, the use of student growth as a significant factor in teacher evaluations that must include multiple measures.

Changes: None.

Comment: Commenters stressed that it is imperative that there is common ground on how to develop, fairly compensate, and accurately evaluate teachers. A few commenters stated that there should be collaboration between teachers and principals in determining appropriate measures for evaluation.

Discussion: We agree about the importance of involving teachers and principals in the design and development of these evaluation systems, and are adding in this final notice language requiring such systems to be designed and developed with teacher and principal involvement.

Changes: We have revised criterion (D)(2)(ii) to read, ''Design and implement rigorous, transparent, and fair evaluation systems for teachers and principals that (a) differentiate effectiveness using multiple rating categories that take into account data on student growth (as defined in this notice) as a significant factor, and (b) are designed and developed with teacher and principal involvement.''

Comment: One commenter recommended that the Department replace the word ''rating'' with ''personnel evaluation'' to account for a more nuanced approach with multiple measures.

Discussion: We believe that the reference to ''rating categories'' in criterion (D)(2)(ii) is sufficiently clear that the criterion does not need to be revised.

Changes: None.

Comment: A large number of commenters recommended changes to the proposed definition of *student growth*. Some suggested that we include in the definition the use of non-achievement-based measures of student learning, performance-based or portfolio assessments, and interim assessments. Other commenters suggested including in the definition the specific amount of growth required. Some commenters supported the proposed definition's emphasis on individual growth, while others called for comparisons among ''like populations,'' such as students with disabilities or English language learners. One commenter warned that the use of a growth-based model could make teachers unwilling to serve students with disabilities. Some commenters urged the Department to require specific models, such as value-added, while others urged the Department not to require specific models in order to leave States with the flexibility to develop their own measures of student growth. One commenter was concerned that the definition ''amounts to another all or nothing model'' and pointed out that research on student growth cautions against making judgments about student growth using solely two data points, and suggested that we reconsider this approach.

Discussion: Our purpose, in the context of a competitive grant program intended to provide leading-edge States with incentives to develop and test innovative education reform ideas, is to give States freedom to create their own systems for measuring student growth within a few key parameters. We believe that the proposed definition strikes this balance and that, therefore, significant changes are not needed. We acknowledge that LEAs or schools may reasonably want to measure student growth using more than two data points. We are changing the phrase ''two points in time'' to ''two or more points in time'' to permit the use of interim assessments or achievement data collected across multiple years. We are also editing the second sentence for clarity; this includes deleting the phrase ''in order to increase the construct validity and generalizability of the information.''

Changes: We have revised the definition of *student growth* to read as follows: ''*Student growth* means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms.''

Comment: Numerous commenters expressed their support for evaluating teachers and principals based on student achievement or growth. One commenter stated that principal evaluations should include an aggregation of data on student growth. Several of these commenters, however, asserted that student growth data have limitations, including a lack of common definitions between States, difficulty in disaggregating a teacher's effect on student achievement from other effects, and the lack of data for all grade levels and subject areas. Additionally, many commenters expressed their disapproval of the proposed criteria regarding using student achievement data or student

growth for the evaluation of teachers and principals. In support of their arguments, those commenters cited factors such as the current limitations of student assessments, and the inadequacy of assessments as an evaluation factor. Several of those commenters claimed that there is a lack of research or evidence demonstrating that the use of such data for teacher and principal evaluations has any positive impact on teacher, principal, or student performance. One commenter disagreed with the Department's statement that ''It is difficult to predict teacher quality based on the qualifications that teachers bring to the job. Indeed measures such as certification, master's degrees, and years of teaching experience have limited predictive power on this point.'' The commenter argued that the research the Department cites (*i.e.*, Kane *et al.*) actually demonstrates that teaching experience and whether a teacher is fully certified does indeed have substantial impact on students' achievement. Other commenters argued that research indicates growth models are unstable and too vulnerable to multiple sources of error and to other student and school factors separate and apart from student achievement. Additionally, many commenters offered reasons for not using student assessments as a factor in teacher and principal evaluations, including the claims that: Using student achievement data to make employment decisions may lead to corruption, students are not held accountable for the results of State assessments, and that such a policy would detract from other priorities, such as equitable distribution of effective teachers. Another commenter argued that measuring teacher effectiveness ignores the organizational context of schools and inappropriately defaults to a single measure of student test scores as the basis to evaluate, compensate, and dismiss teachers.

Discussion: Research shows that teacher quality is a critical contributor to student learning, and that differences between teachers are persistent. Kane *et al.* found in their study that the certification status of teachers (*e.g.*, certified, uncertified, and alternative certified) ''has at most small impacts on student test performance.'' At the same time, they found that, ''among those with the same certification status, there are large and persistent differences in teacher effectiveness.'' They also reported that evidence suggests that teachers' classroom performance during their first two years of teaching is a more reliable indicator of a teacher's future effectiveness than their certification status.[4] Another study used data from Chicago public high schools to estimate the importance of teachers on student achievement in mathematics and found that, ''one semester with a teacher rated two standard deviations higher in quality could add 0.3 to 0.5 grade equivalents, or 25 to 45 percent of an average school year, to a student's math score performance.'' The study further concluded that the resulting teacher quality ratings ''remain relatively stable for an individual instructor over time.''[5] A recent study of New York City public charter schools concluded that charter schools that pay teachers in part based on evaluations of their performance have more positive effects on student achievement.[6] In light of this evidence, the Department believes that the best indicator we have today for teacher (and by extension principal) quality is student academic growth, but that (as noted above) this data must be supplemented with additional measures. At the same time, the Secretary appreciates that growth models are not yet perfect, that there are some challenges to using student growth data, and that there is more work to be done in this area. For this reason, we do not stipulate which approach States, LEAs, or schools should use to measure student growth so long as the approach used is rigorous and comparable across classrooms (*see* the definition of *student growth*). The criteria and definitions in this notice reflect the Department's belief that student growth data should be used as a significant factor in determining teacher and principal effectiveness; that evaluation systems should use multiple measures; that these evaluation systems should be rigorous, transparent, and fair; and that they should be designed and developed with teacher and principal involvement.

We do not agree that using student growth data as a part of a rigorous, transparent, and fair evaluation system that is designed and developed with teacher and principal involvement will lead to corruption or detract from other priorities. We contend that implementing fair and transparent evaluation systems developed with the involvement of both teachers and principals, and that include student growth as a significant factor in evaluations, will lead to greater trust between teachers and principals, enable meaningful decision-making and support, and push educators to remain focused on the ultimate priority — improving student achievement.

Changes: None.

Comment: One commenter recommended that the Department encourage the development of research-based rubrics and/or innovative teacher performance evaluation programs.

Discussion: We encourage LEAs to be innovative and draw on rigorous research in creating evaluation systems; this is an area that has high leverage and is ripe for change. However, in order to avoid creating a one-size-fits-all policy or stifling innovation, we decline to name specific tools that LEAs should use in their evaluation systems.

Changes: None.

Comment: One commenter recommended that the Department consider designating NAEP as the standard test for every State to measure student achievement.

Discussion: Race to the Top will use both the NAEP and the assessments required under the ESEA to measure student achievement. Each test has its benefits and its drawbacks; together, we believe they will offer the Nation an appropriate ''picture'' of how Race to the Top States are performing.

Changes: None.

Comment: One commenter recommended removing the phrase ''targeted professional development'' from criterion (D)(2)(iv)(a) (proposed criterion (C)(2)(d)(i)). The commenter's rationale was that the Department should promote a comprehensive system for managing and developing human capital rather than a one-to-one system based on remediation. In addition, the commenter asserted that the Department should be explicit that professional development must be for the purpose of increasing student achievement.

Discussion: We agree with the commenter that the term ''targeted professional development'' does not connote the appropriately broad range of professional development and support for teachers and principals originally envisioned by the Department. We are therefore changing this criterion to include the phrase ''providing relevant coaching, induction support, and/or professional development.'' We do, however, want to make clear that in the context of criterion (D)(2), we are encouraging LEAs and schools to consider how they will use teachers' and principals'

[4] *See*, Kane, Thomas J., Jonah E. Rockoff, and Douglas O. Staiger (2006), ''What Does Certification Tell Us About Teacher Effectiveness? Evidence from New York City.''

[5] Daniel Aaronson, Lisa Barrow, and William Sander (2003), ''Teacher and Student Achievement in the Chicago Public High Schools,'' Federal Reserve Bank of Chicago Working Paper 2002–28.

[6] Hoxby, Caroline M., Sonali Murarka, and Jenny Kang. ''How New York City's Charter Schools Affect Achievement, August 2009 Report.'' Second report in series. Cambridge, MA: New York City Charter Schools Evaluation Project, September 2009.

evaluations to inform their specific professional development plans. In other criteria, such as (D)(5) and (C)(3)(ii), we encourage a broad range of professional development activities. We also believe that, by specifying that professional development should be responsive to evaluations that use student growth as a significant factor, we make clear in this final notice that professional development should be oriented around supporting teachers and principals in increasing student achievement.

Changes: We have split proposed criterion (C)(2)(d)(i) into two parts. We have combined the first part with proposed criterion (C)(2)(c), resulting in criterion (D)(2)(iii), which reads, ''Conduct annual evaluations of teachers and principals that include timely and constructive feedback; as part of such evaluations, provide teachers and principals with data on student growth for their students, classes, and schools.'' The second part has been designated criterion (D)(2)(iv)(a), which specifies that evaluations should inform decisions regarding ''Developing teachers and principals, including by providing relevant coaching, induction support, and/or professional development.''

Comment: A few commenters recommended that the Department include a clear statement indicating that State reform plans should specify that teachers and principals will be assessed on more than a single year of data.

Discussion: We believe it is important to use accurate data when evaluating teacher and principal performance, and that those evaluations should be done at least annually and should involve timely and constructive feedback. To make it clear, however, that annual evaluations do not have to be conducted based on only one year of information, we have revised the definition of *student growth* to clarify that student growth should be measured using achievement data between ''two or more points in time,'' rather than between only two points in time.

Changes: We have revised the definition of *student growth* so that it means the change in achievement data for an individual student between ''two or more points in time.''

Comment: A number of commenters supported the use of student growth data in determining compensation and promotions. A few commenters stated that the Department needs to specify how to structure performance pay (*e.g.*, how to offer it for teachers of subjects that are not tested). However, many commenters expressed their opposition to pay based on student achievement or growth data. Several commenters stated that there is no evidence suggesting that performance pay linked to achievement data leads to improved educational outcomes. Several commenters asserted that performance pay places an undue emphasis on teachers and principals as individuals as opposed to parts of the education system as a whole. One commenter recommended that Race to the Top funds be used to design tests in pilot districts that could test the effectiveness of alternative compensation programs.

Discussion: The Department believes that we need to do much more to shine a spotlight on and reward excellence in teaching and school leadership, and that one way to do so is through compensation and promotion. At the same time, we recognize that rewarding excellence while fulfilling the demands of fairness and the need to maintain a collaborative school environment is a delicate task that requires cooperation between LEA leadership, principals, and teachers.

We also recognize that pay-for-performance systems in education are controversial and spark much debate. Some States, LEAs, and schools have experimented with such models and shown relative success and promise, while others have experienced less encouraging results. The ARRA also includes funds for the Teacher Incentive Fund, which will award grants to LEAs to develop performance-based compensation models. While research on pay-for-performance plans is limited, there is evidence to suggest that a well-designed performance-based pay system can lead to improved student achievement.[7] Studies indicate that the most effective and successful pay-for-performance systems incorporate factors such as using multiple measures for evaluating performance; making student growth just one measure of performance; having a clearly identified purpose (*e.g.*. improving student achievement, improving recruitment and retention, or attracting teachers to hard-to-staff schools); and creating collaboration among teachers, principals, and other stakeholders. The Department believes that criterion (D)(2) incorporates these factors by specifying that evaluation systems for teacher and principals should use multiple measures, take into account student growth as a significant factor, and be designed and developed with teacher and principal involvement.

We also note that the criterion refers to decisions regarding promotion and retention as well as compensation because we believe that great teaching and school leadership should be recognized and rewarded as much as possible, and that talented educators should have opportunities for increased responsibilities and other retention incentives, where appropriate, as well as for additional compensation.

Changes: We have reorganized criterion (D)(2) to make it clearer that the decisions discussed in criterion (D)(2)(iv) should be based on the evaluation systems discussed in criterion (D)(2)(ii) and the evaluations discussed in criterion (D)(2)(iii). We have also added ''retaining'' to the list of decisions in criterion (D)(2)(iv)(b).

Comment: Numerous commenters argued that performance pay would create perverse incentives for teachers to work only with student groups most likely to demonstrate improvement, thereby marginalizing difficult-to-teach student groups and communities, including low-income communities, English language learners, and students with disabilities.

Discussion: As contemplated in the notice, performance pay would be based on teacher and principal evaluations that, as discussed previously, use student growth—not raw student achievement data or proficiency levels—as a significant factor. Thus, teachers whose pupils start behind their peers or who are working with students with disabilities or English language learners are in no way penalized. This final notice also gives States, LEAs, and/or schools sufficient flexibility to take these concerns of commenters into account when creating systems for evaluation, compensation, and promotion. We also note that the Department is placing an emphasis on attracting teachers to hard-to-staff subjects, specialty areas, and schools in criterion (D)(3).

Changes: None.

Comment: Several commenters recommended including language requiring States to provide additional responsibilities for effective teachers. Many of the commenters included specific examples of professional opportunities States or LEAs should provide to highly effective teachers, such as serving as a community liaison, induction leader, or curriculum developer after earning an endorsement on their teacher's license.

Discussion: The Department believes that it is critical to adequately compensate and promote our best

[7] *See e.g.*, Joshua H. Barnett, Gary W. Ritter, Marcus A. Winters, and Jay P. Greene, ''Evaluation of Year One of the Achievement Challenge Pilot Project in the Little Rock Public School District,'' University of Arkansas, January 2007.

teachers and principals. These professionals are the role models and leaders of our schools and are essential to implementing effective educational reforms and improving student achievement. For these reasons, this notice makes clear that highly effective teachers and principals should have an opportunity to obtain additional compensation and responsibilities for their high performance.

We believe that LEAs and schools, in collaboration with their teachers and principals, are best situated to determine the timing and types of additional responsibilities that should be given to their staff and that it would be inappropriate for the Department to set requirements around this issue.

Changes: None.

Comment: One commenter recommended replacing the word ''tenure'' with ''continuing employment status'' for the sake of clarity.

Discussion: The Department believes the word ''tenure'' is more widely understood and declines to make the suggested change.

Changes: None.

Comment: Several commenters expressed concern that, while proposed criterion (C)(2)(iii) mentions using information to grant tenure and dismiss teachers, it does not focus on the need to retain teachers. One of these commenters stated that dismissals are going to involve a very small percentage of teachers and principals. The commenter further stated that both rural and urban schools may have difficulty attracting and retaining effective teachers. One commenter cited the difficulties in attracting and retaining effective or highly effective teachers in extremely rural areas. The commenter further stated that school districts in rural areas are forced to hire beginning teachers who cannot be considered effective or highly effective as defined in the NPP. A couple of commenters believed that robust, strong, and fair evaluation systems are important for attracting and retaining highly qualified, effective teachers and principals to high-poverty schools.

Discussion: The Department concurs that recruiting and retaining effective and highly effective teachers and principals is critical for States and LEAs to meet their goals for education reform and improve student achievement, particularly in high-poverty and/or high-minority schools. For this reason, criterion (D)(3) discusses the equitable distribution of effective teachers and principals in high-poverty and/or high-minority schools and encourages States and LEAs to provide incentives and strategies to attract and retain effective teachers and principals. Criteria (D)(2)(iv)(a) and (D)(5) also encourage States to support LEAs in providing professional development and undertaking other efforts, especially those informed by data and evaluations, to make their existing teachers more effective. We are also revising criterion (D)(2)(iv)(b) to specifically clarify that teacher and principal evaluations should inform retention decisions.

Changes: We have revised criterion (D)(2)(iv)(b) to read as follows, ''Compensating, promoting, and retaining teachers and principals, including by providing opportunities for highly effective teachers and principals (both as defined in this notice) to obtain additional compensation and be given additional responsibilities.''

Comment: Many commenters supported using evaluations in making employment decisions, such as those regarding teacher and principal tenure, dismissal, displacement, and layoff. Most of these commenters supported using multiple measures in these evaluations and not basing such employment decisions primarily or solely on assessment results.

Discussion: We agree that rigorous, transparent, and fair evaluation systems should be used to inform a variety of decisions, including development, compensation, retention, tenure, certification, and removal. As discussed earlier, we are requiring that evaluation systems include multiple measures and that student growth be a significant factor, and we are revising criterion (D)(2) to make it clearer that the decisions under criterion (D)(2)(iv) should be based on the evaluation systems discussed in criterion (D)(2)(ii) and the evaluations discussed in criterion (d)(2)(iii). For purposes of clarity, we are dividing proposed criterion (C)(2)(d)(iii) into two criteria and adding decisions regarding full certification to one of the criteria.

Changes: Proposed criterion (C)(2)(d)(iii) has been reorganized as criteria (D)(2)(iv)(c) and (D)(2)(iv)(d). Criterion (D)(2)(iv)(c) addresses the use of evaluation systems to inform decisions regarding whether to grant tenure and/or full certification to teachers and principals, and criterion (D)(2)(iv)(d) addresses removing ineffective tenured and untenured teachers and principals after they have had ample opportunities to improve. For both criteria, we have clarified that these decisions should be made using rigorous standards and streamlined, transparent, and fair procedures.

Comment: Some commenters suggested that the Department should clarify the statement that the removal of teachers and principals must only occur after they have received ample support and opportunities to improve their performance yet have failed to do so. A few commenters recommended that we clarify the term ''ample opportunities'' and specify the amount of time that low-performing teachers should have to improve their performance (*e.g.*, as one school year).

Discussion: Providing teachers and principals with the needed support to improve the effectiveness of instruction and student outcomes is a critical element of Race to the Top, and removing ineffective professionals from schools is important as well.

Race to the Top includes a number of criteria, in addition to criterion (D)(2), that are dedicated to teacher and principal professional development and supports; parts of criteria (B)(3) and (C)(3) and all of criterion (D)(5) concern this issue, including discussions of professional collaboration and planning time, individualized development plans, training and support in the analysis and use of data, classroom observations with immediate feedback, and other activities critical to supporting and improving teacher and principal capacity. These supports are paired, in the Race to the Top criteria, with criteria that focus on rigorous, fair and transparent teacher and principal evaluation systems that should include providing feedback on areas where professional improvements are needed.

We decline to specify the amount of time teachers should be given to make improvements in their performance, beyond specifying that they should have ''ample opportunities to improve.'' It is the responsibility of the LEA and school to provide their students with effective teachers and principals, to provide their teachers and principals with effective support, and to take action when appropriate. We have deleted the phrase ''but have not done so'' to reflect this.

Changes: We have removed the phrase ''but have not done so'' from criterion (D)(2)(iv)(d).

Comment: One commenter argued that aspects of criterion (D)(2) (proposed criterion (C)(2)) may contravene the Personnel Evaluation Standards that, according to the commenter, have been federally accredited.

Discussion: The Personnel Evaluation Standards referenced by the commenter are not federally accredited or approved by the Department. They are voluntary guidelines published by a private organization and are in no way binding on the Department or its grantees.

Changes: None.

Comment: A few commenters recommended that States should have a

flexible amount of time to develop evaluation systems that link data on student growth to teachers and principals in order to allow time for the development of advanced assessment systems. Other commenters recommended that this notice reflect an understanding of the timeframe that may be necessary to build a comprehensive and fair teacher and principal evaluation system that takes student growth data into account given the state of the research in this area and the practical considerations in establishing such a system. The commenter stated that the proposed criterion would compel States to rush into imposing current value-added indicators of student learning on current evaluation systems rather than developing new advanced systems.

Discussion: The notice does not state a specific timeframe for States to develop assessment systems and teacher and principal evaluation systems. Through their applications, States must provide, for each Reform Plan Criterion in this notice, a detailed plan for the use of grant funds that includes, among other things, (1) the key activities to be undertaken; (2) the timeline for implementing the activities; and (3) annual targets (where applicable) with respect to performance measures for the four school years beginning with the 2010–2011 school year. (*See* Application Requirements, section (e), for a complete list of requirements). It is through this process that States have the flexibility to define the timeframe for implementing their activities, including systems development. States' applications will be judged, in part, on whether their activities and targets are ambitious yet achievable. As a result, we believe that this final notice appropriately encourages States and LEAs to strike the right balance between speed and thoughtfulness. We emphasize, however, that States should not wait to develop improved evaluation systems until higher-quality assessments are available, as doing so would delay this essential progress by years and, in the process, harm student achievement. We expect that these evaluation systems will improve over time, as LEAs learn from their own experiences and from the experiences of others, and as States develop higher-quality assessments, the results of which will improve the measures of student growth that feed into these evaluation systems.

Changes: None.

Comment: A number of commenters recommended requiring States to include in their plans a commitment to adhere to due process rights and existing State statutes concerning tenure and dismissal. A few commenters recommended requiring States to comply with local collective bargaining agreements or involve employee representatives where there is no collective bargaining agreement. One commenter specifically suggested requiring that collective bargaining be the vehicle for implementing performance pay schemes in local school districts.

Discussion: In order to successfully implement many of the plans under criterion (D)(2), LEAs in collective bargaining States will need to work collaboratively with their local unions. Because this work and collaboration are so important, States will earn points based on the extent to which the local union leadership in their participating LEAs have signed the MOUs between the States and the LEAs indicating their intent to work in partnership with the LEAs in implementing the plans, including by addressing contractual issues such as local bargaining agreements. (*See* criterion (A)(1)). In addition, criterion (D)(2)(ii) creates incentives for LEAs to design and implement rigorous, transparent, and fair evaluation systems with teacher and principal involvement, while criterion (D)(2)(iv)(d) encourages LEAs to make decisions regarding removal using rigorous standards, and streamlined, transparent, and fair procedures.

Changes: None.

Selection Criterion (D)(3): Ensuring Equitable Distribution of Teachers and Principals (Proposed Criterion (C)(3)):

Comment: One commenter recommended adding a definition of *high-minority school* and defining the term as a school in the highest quartile of schools in a State with respect to enrollment of minority students. The commenter also recommended adding a definition of *low-minority school* and defining the term as a school in the lowest quartile of schools in a State with respect to enrollment of minority students. These comments were in the context of a recommendation by the commenter to add to criterion (D)(3) a focus on the equitable distribution of effective teachers with respect to high-minority schools.

Discussion: We agree that it is important to consider the equitable distribution of effective teachers with respect to both high-poverty and high-minority schools, and we are revising criterion (D)(3) accordingly. To give greater clarity to this change, we are adding definitions of *high-minority school* and *low-minority school* to this notice. However, in acknowledgment of the vast demographic differences between States, we have opted to give States greater flexibility in defining these terms than the commenter recommended, and are asking each State to define the terms consistent with its Teacher Equity Plan.

Changes: We have added definitions of *high-minority school* and *low-minority school,* both of which are defined ''by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.''

Comment: One commenter recommended defining *low-poverty school* for the purposes of reporting and accountability related to ensuring the equitable distribution of effective teachers and principals under criterion (D)(3) (proposed criterion (C)(3)).

Discussion: The Department agrees that a definition of *low-poverty school,* in conjunction with the definition of *high-poverty school* proposed in the NPP and retained in this notice, would help ensure that States are using the same standards to inform their efforts to ensure that students in high-poverty schools have equitable access to highly effective teachers and principals and are not served by ineffective teachers and principals at higher rates than other students. We are, therefore, adding a definition of *low-poverty school,* adapted from similar language in the ESEA.

Changes: We have included the definition of *low-poverty school* in this notice, defining the term to mean, ''consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the lowest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.''

Comment: Multiple commenters suggested that the Department take further steps toward ensuring the equitable distribution of teachers by requiring States to have a plan to ensure that low-income and minority students are not taught by ineffective teachers at higher rates than other students. Other commenters recommended that the Department ask States to document their efforts to address gaps in teacher quality between high-poverty and low-poverty and high-minority and low-minority schools. Another commenter recommended revising the performance measures for this criterion to include the number and percentage of effective teachers and principals in high-poverty, low-poverty, high-minority, and low-minority schools. Along those lines, one commenter stated that evidence of existing progress was more compelling

than reform plans and should therefore be given more weight.

Discussion: The Department believes that great teaching and leadership matter tremendously, and that the inequitable distribution of highly effective teachers and principals is a major cause of the achievement gap. We therefore agree with the commenters that we should take further steps to ensure equitable distribution of effective teachers and principals. To that end, we are revising criterion (D)(3)(i) so that it addresses the equitable distribution of effective teachers and principals with respect to *high-minority schools,* in addition to high-poverty schools. We are also specifying that, in addition to having equitable access to highly effective teachers and principals, students in high-poverty and/or high-minority schools should not be served by ineffective teachers and principals at higher rates than other students. We agree that the performance measures for this criterion should allow for comparisons between high-minority and/or high-poverty schools and low-minority and/or low-poverty schools, and we are revising the evidence and performance measures to reflect this. (*See* Appendix A: Evidence and Performance Measures.)

We appreciate the suggestion from commenters that this criterion should reflect States' past actions, and we are revising this criterion to specify that the plans States submit should be informed by past actions and data. We understand the skepticism expressed by commenters who note that States have had Teacher Equity Plans in place since 2002 and have not made sufficient progress, but we emphasize that Race to the Top will use States' performance targets to create a level of accountability that did not exist for these prior plans.

Furthermore, we believe that judging State progress to date would be difficult given the lack of measures of teacher and principal effectiveness and the imperfections with the existing input-based measures, and we believe that asking States to report on their progress using one type of measure and to craft plans using another type would be confusing. Therefore, we choose not to give more weight to progress to date. At the same time, we encourage States to build on their successes and learn from their experiences in recent years.

We are also clarifying that the State's plan for ensuring equitable distribution of effective teachers and principals should be developed in collaboration with the State's participating LEAs. This revision is necessary to ensure consistency with criteria (D)(2) and (D)(5) and to respond to commenters' general concerns about the roles of States and LEAs.

Changes: We have added the phrase ''in collaboration with its participating LEAs (as defined in this notice)'' to criterion (D)(3). We also have revised criterion (D)(3)(i) to read, ''Ensure the equitable distribution of teachers and principals by developing a plan, informed by reviews of prior actions and data, to ensure that students in high-poverty and/or high-minority schools (both as defined in this notice) have equitable access to highly effective teachers and principals (both as defined in this notice) and are not served by ineffective teachers and principals at higher rates than other students.''

Comment: Some commenters recommended requiring that teachers assigned to high-poverty schools with a significant number of English language learners have dual certification.

Discussion: We believe that the decision regarding dual certification for teachers is best left to the States, who have a better understanding of their own demographics as well as whether this critical training is needed for all teachers in such schools or just certain teachers. For this reason, we have decided not to include this specific requirement. However, as discussed previously, we are revising the definition of *alternative routes to certification* to clarify that these routes should prepare teachers and principals to address the needs of all students, including English language learners.

Changes: None.

Comment: One commenter expressed concern that Race to the Top's criterion for ensuring equitable teacher distribution, though well-intended, would have a generally negative impact on struggling schools.

Discussion: The Department intends for this criterion to improve conditions in struggling schools, and does not agree that filling high-minority or high-poverty schools with highly effective teachers through equitable teacher distribution strategies would have a negative impact on struggling schools.

Changes: None.

Comment: Multiple commenters recommended clarifying that special education is an area of teaching, rather than a subject. One commenter made a similar recommendation regarding English language acquisition.

Discussion: We agree that special education and English language acquisition are areas of teaching, not stand-alone subjects. We are revising criterion (D)(3)(ii) to clarify this. We are also clarifying the criterion to refer to ''language instruction education programs (as defined under Title III of the ESEA)'' instead of ''English language proficiency.''

Changes: The Department has revised criterion (D)(3)(ii) to read, ''Increase the number and percentage of effective teachers (as defined in this notice) teaching hard-to-staff subjects and specialty areas including mathematics, science, and special education; teaching in language instruction educational programs (as defined under Title III of the ESEA); and teaching in other areas as identified by the State or LEA.''

Comment: Several commenters requested an expansion of hard-to-staff subjects to include additional subjects or programs such as career and technical education, computer science, and gifted and talented programs. One commenter recommended the addition of over-age students and under-credited youth to this definition.

Discussion: While there are some nationwide teacher shortages, the list of hard-to-staff subjects varies from region to region. The Department has therefore focused its list on national needs, and is providing States with the flexibility to add other subjects or areas as they see fit. The NPP allowed States or LEAs to identify hard-to-staff subjects other than math and science. In this notice, we are clarifying that they may also identify hard-to-staff specialty areas beyond those listed.

Changes: We have revised criterion (D)(3)(ii) by inserting the phrase ''and teaching in other areas as identified by the State or LEA.''

Comment: Several commenters argued that teachers value working conditions over relocation bonuses. Multiple commenters recommended that we focus on the value of class size reduction, improving school safety, and repairing school facilities in order to improve working conditions and achieve equity in teacher distribution. One commenter stressed that States' Teacher Equity Plans should specifically address the steps States will take to remedy disparities in resources, services, and opportunities. Multiple commenters expressed opposition to plans that would encourage involuntary transfers of faculty and principals to high-poverty schools and arbitrary abolition of seniority in contracts. The same commenters also expressed support for certain incentives for teachers in high-poverty schools, including extended contracts or loan forgiveness programs. Many commenters recommended expanding the criterion to refer to attracting high-quality teachers to all classrooms and subjects, rather than just hard-to-staff ones. Several commenters recommended that the list of incentives

and strategies that States might use to ensure equitable distribution of effective teachers and principals should include professional development and training programs. In fact, multiple commenters noted the value of retaining effective teachers and supporting teachers in high-poverty schools through long-term investments such as preparation programs, mentoring, peer review, and wraparound programs, and argued for their superiority over purely monetary incentives or one-size-fits-all approaches. One commenter suggested supporting teachers in their efforts to receive National Board Certification and placing these nationally certified teachers in high-poverty schools. One commenter suggested that the Department provide direct guidance on recruitment and retention, including incentives to persuade high-quality teachers who have retired from or left high-need urban schools to return.

Discussion: The Department agrees that high-quality working conditions are important for all professionals. In the context of criterion (D)(3), ensuring the equitable distribution of teachers and principals, we agree that strategies to attract teachers to hard-to-staff schools, subjects, and specialty areas may encompass a range of different approaches. Many of the ideas put forth in the comments could form the basis for States' strategies to more equitably allocate their teachers. While we have not included all of the examples in this final notice, we are adding ''teaching and learning environments'' and ''professional development'' as examples of areas in which States could offer incentives and strategies. In creating their plans, States should not feel bound by this illustrative list; rather, they should determine which areas will be most likely to succeed to meet their unique circumstances.

Changes: We have revised criterion (D)(3) to specify that plans submitted under criterion (D)(3)(1) and (ii) may include, but are not limited to the implementation of incentives and strategies in such areas as recruitment, compensation, teaching and learning environments, professional development, and human resources practices and processes.

Comment: Multiple commenters expressed opposition to incentives that provide salary compensation for teachers based on the subject they teach, and one supported the use of an enhanced compensation system available to all employees, which would work in tandem with the traditional bargained single-salary schedule.

Discussion: The Department recognizes that, for a variety of reasons, including outside labor market opportunities, it may be harder to recruit teachers for some subjects and specialty areas than for others. We believe that State policy should be responsive to this reality so that hard-to-staff subjects and specialty areas, like other subjects and areas, are filled with exceptional teachers and leaders. We leave it up to States and LEAs to determine the best methods for achieving this goal, and we have provided some illustrative examples in criterion (D)(3)(ii) that we believe are appropriate responses to this long-standing problem.

Changes: None.

Comment: One commenter suggested that Race to the Top funds could be used to bolster recruitment to the teaching profession by investing in research to determine why many college students choose not to enter the profession of teaching.

Discussion: While the commenter suggests one possible idea for bolstering recruitment, we decline to prescribe methods of improving recruitment, but encourage applicants to suggest approaches that they believe will work in their contexts.

Changes: None.

Comment: One commenter recommended that in light of the historical challenges of improving equitable teacher distribution, we provide additional guidance on how States and districts may demonstrate such progress. Another commenter asserted that the Department's NPP fell short of the kind of clear and decisive guidance needed in this area.

Discussion: The Department believes that this final notice as a whole provides a sufficient framework for States to embark on a path to improving the equitable distribution of their teachers and principals, while leaving States and LEAs with sufficient discretion to prepare and implement plans that make sense in their specific circumstances. The Department looks forward to working with grantee States to provide advice and technical assistance where they need it most, which could include the implementation of equitable distribution plans.

Changes: None.

Comment: One commenter recommended encouraging States to pass legislation requiring districts and unions to discuss the issue of equitable teacher and principal distribution in collective bargaining negotiations.

Discussion: The Department encourages collaboration and partnerships between LEAs and teacher unions to resolve issues that may arise as a result of States' Race to the Top plans, such as the equitable distribution of teachers and principals in high-poverty and/or high-minority schools. We believe that Race to the Top may lead to changes in how LEAs and teachers' unions work together within the framework of collective bargaining to address these issues. However, any changes to laws or policies governing collective bargaining are best determined at the State and/or LEA level.

Changes: None.

Comment: A few commenters recommended including performance measures on the percentage of teachers who have taught a minimum number of years, are non-qualified, or are teaching out-of-subject or out-of-field.

Discussion: The Department believes that the performance measures included in this final notice are designed with an appropriate focus on student outcomes. We do not believe it is necessary to include these additional requirements, but welcome States to propose additional performance measures where appropriate for their plans.

Changes: None.

Comment: One commenter expressed concern that Race to the Top lacks the adequate funding required for the preparation, recruitment, retention, and professional development of teachers that is necessary to successfully create equitable teacher distribution.

Discussion: The ARRA provides $4.3 billion for the Race to the Top Fund. This is the largest-ever single investment in school reform. It is our belief that States that use these funds wisely will be able to make significant inroads in addressing the problems of equitable teacher distribution.

Changes: None.

Selection Criterion (D)(4): Improving the Effectiveness of Teacher and Principal Preparation Programs (Proposed Criterion (C)(4)):

Comment: One commenter encouraged us to specify a link between preparation programs and student growth, not just student achievement, to account for teachers and principals serving in persistently low-performing schools where their effectiveness will be determined solely based on student test scores.

Discussion: We agree with the commenter that teacher and principal effectiveness should be measured by student growth (and student achievement is an input to calculating student growth); therefore both student achievement and student growth data should be linked to students' teachers and principals and, in turn, this data should be linked to the programs from which those teachers and principals

received their education credentials. We are revising the notice to this effect.

Changes: We have revised criterion (D)(4)(i) by adding ''and student growth'' after ''student achievement.''

Comment: Many commenters encouraged the Department to require States to link multiple measures of teacher effectiveness to preparation programs, rather than requiring a link only to student test scores. Some commenters pointed out that just as teachers should be evaluated by multiple measures, the same is true of preparation programs, which contribute to more aspects of a teacher's performance than just their students' test scores. One commenter stated that teacher and principal preparation programs should also be evaluated on their ability to develop the capacity of family, school, and community engagement programs to improve student performance. Another commenter recommended that equal priority be placed on teacher preparation that recognizes the importance of teachers being responsible for the social, creative, and emotional development of the child as well as academic growth. One commenter stressed that effective preparation programs should be evaluated on measures such as the pedagogical training and clinical experiences provided to participants. Other commenters expressed concern that evaluating preparation programs by linking student achievement data alone would lead to a narrowing of the curriculum in preparation programs to focus on student test preparation.

Discussion: We agree that many outcome indicators are important for measuring the effectiveness of teacher and principal preparation programs. However, the Department believes that the most important indicator of the quality of a preparation program is the performance of the students served by the teachers and principals the program prepared. At the same time, we welcome States to supplement this reporting with other indicators that they believe are important. We do not agree with the commenters that focusing on student achievement will lead to preparation programs narrowing their curriculum and focusing on student test preparation. We believe that publicly reporting effectiveness based primarily on student achievement and student growth will result in preparation programs reevaluating their programs to ensure that all teachers and principals completing their programs have the wide range of knowledge and skills necessary to help raise student achievement.

Changes: None.

Comment: One commenter expressed concern that State assessments are not always valid or reliable for English language learners, making their use to evaluate preparation programs for teachers of this population problematic.

Discussion: States are currently required under the ESEA to assess English language learners in a valid and reliable manner and provide reasonable accommodations including, to the extent practicable, assessments in the language and form most likely to yield accurate and reliable information on what they know and can achieve in academic content areas, until such students have achieved English language proficiency. As States currently use these data in setting academic achievement standards under the ESEA and determining targets and educational needs for English language learners in their States, we believe these data are equally appropriate for evaluating preparation programs under Race to the Top.

Changes: None.

Comment: Several commenters asked us to clarify whether the intent of this criterion is to link data only to public institutions within a given State or to link teachers to out-of-State or out-of-country institutions, or private credentialing institutions.

Discussion: The language in criterion (D)(4)(i) specifies that States should report the effectiveness of ''each credentialing program in the State.'' The Department understands the phrase ''each credentialing program'' to include both public and private credentialing institutions. To the extent possible, we encourage inter-State reporting as well.

Changes: We have clarified in criterion (D)(4)(i) that student achievement and student growth data linked to the students' teachers and principals should be linked to ''in-State'' programs where those teacher and principals were prepared for credentialing, and that States only need to publicly report data for those credentialing programs ''in the State.''

Comment: Several commenters expressed concern regarding the provision that States report the data for each credentialing program ''that has twenty or more graduates annually.'' One commenter stated that creating an arbitrary threshold of 20 or more graduates would have the effect of only requiring data for large teacher and principal preparatory programs and recommended that all teacher and principal programs be held accountable. One commenter expressed concern that data on new credentialing programs, such as computer science teacher preparation programs, which are currently small (less than 20 graduates annually), and where student performance data may lag, would not be included in the State's report of the effectiveness of teacher preparation programs. This commenter further stated that institutions of higher education may shy away from starting new programs that are not guaranteed to perform well, given the threshold of 20 graduates annually.

Discussion: We agree that restricting the reporting to those teacher and principal preparation programs that have 20 or more graduates annually will unnecessarily exclude many teacher and principal preparation programs, including those that provide alternative routes to certification. Based on the comments, we also realize that it would be a burden on States to obtain the information on the many preparation programs to determine whether such programs annually graduate at least 20 or more students. We are, therefore, revising criterion (D)(4)(i) by removing the phrase ''that has twenty or more graduates annually.''

Changes: We have removed the phrase in criterion (D)(4)(i) that States report data on each credentialing program ''that has twenty or more graduates annually.''

Comment: One commenter suggested that we change the criterion so that States publicly report ''data'' instead of ''findings'' for each credentialing program, and to clarify that States need only report raw data, not an analysis of that data. Raw data could then be analyzed by both States and outside researchers.

Discussion: We agree that asking States to report the ''data'' and not ''findings'' for each credentialing program clarifies what States should report, and we are making this change.

Changes: We have replaced ''findings'' with ''data'' in criterion (D)(4)(i).

Comment: Several commenters asked us to explicitly state that we are including programs that provide alternative routes to certification in the group of credentialing programs for which States should collect and report data.

Discussion: Teacher and principal credentialing programs that provide alternative routes to certification must be included in the group of credentialing programs on which States must report data. We do not, however, believe it is necessary to explicitly state this in the notice, as criterion (D)(4)(i) is clear that data should be collected for ''each credentialing program'' in the

State where a State's teachers and leaders received their credential.

Changes: None.

Comment: Several commenters suggested additional requirements be applied to teacher preparation programs, such as requiring instruction in certain subjects, or creating data systems to track different aspects of teacher preparation.

Discussion: We decline to specify detailed requirements of preparation programs because we believe these decisions are generally best left to the States. We encourage States to use evidence, including the data States will gather over time from the systems they put into place for criterion (D)(4)(i), to continuously improve the quality of their teacher and principal preparation programs.

Changes: None.

Comment: A few commenters recommended that we require States to report information regarding teacher and principal effectiveness directly to the preparation programs.

Discussion: In order to meet this criterion, States must publicly report the data for each credentialing program. Preparation programs will therefore have access to these public reports.

Changes: None.

Comment: One commenter requested clarification on which institution data would be linked to in the event that a teacher or principal held multiple credentials, each from a different institution.

Discussion: If a teacher or principal holds multiple credentials from different credentialing programs, States need only link their data to the credentialing institutions that issued the credential that the teacher or principal is using for the teacher or principal's current assignment. States also would have the option to link such teachers or principals to each institution from which they received a credential.

Changes: None.

Comment: One commenter expressed concern that it is unrealistic for States to achieve the required data linkages in a reasonable period of time.

Discussion: We recognize that many States may not currently have data systems in place to collect the required data, but we believe that the four-year period in which States may use Race to the Top funds should be sufficient for them to implement their plans in this area. In responding to this criterion, as with others, States should propose plans that build on and are informed by the assets the State currently has.

Changes: None.

Selection Criterion (D)(5): Providing Effective Support to Teachers and Principals (Proposed Criterion (C)(5)):

Comment: A few commenters stressed that LEAs must take the lead in providing effective, high-quality professional development. One commenter stated that this criterion should focus on support for comprehensive professional learning and supports for teachers and principals with the understanding that this must be primarily a local effort with State support.

Discussion: We agree that the role of States under this criterion should be to support LEAs in providing effective professional development to their teachers and principals, and we are revising the criterion to clarify this.

Changes: Criterion (D)(5)(i) has been revised to clarify that the States' plans are for participating LEAs (as defined in this notice) to provide effective, data-informed support to teachers and principals.

Comment: Many commenters applauded the Department's inclusion of this criterion, and some suggested it is one of the most important Race to the Top criteria. One commenter stated that teachers will be more or less effective in meeting the goal of improving student achievement to the degree that they have the necessary supports and resources available to them in their workplace. One commenter suggested that professional development should be utilized not simply to provide new information but to support teachers in becoming more effective. One commenter stated there should be more emphasis on expanding the pool of experienced school leaders and teachers available to lead reform efforts. In that respect, some commenters stated that the States need more guidance in developing comprehensive professional development systems. The commenters argued that while professional development and common planning and collaboration time are helpful, such supports in and of themselves are not likely to be sufficient in bringing about significant changes needed to meet reform goals. Several commenters suggested that in developing professional development systems States should require teachers and administrators to collaborate with each other with the goal of individualizing support tailored to fit specific teacher needs for meeting reform goals. They recommended that such individualized support should be provided for both teachers and principals through implementation of ongoing, job-embedded professional learning opportunities aligned with district improvement plans for increasing student achievement.

Discussion: The Department agrees that supporting teachers and leaders through comprehensive professional development systems is a crucial component of education reform efforts, which is why we included this Reform Plan Criterion in the NPP. We also believe the support and professional opportunities provided to teachers and principals should be relevant to the individual needs of teachers and principals and should be ongoing and job-embedded, not short-term ''one-shot'' efforts that do very little to improve the quality of teaching.

We appreciate the suggestions we received for examples of the types of professional development activities that are most effective, and we have chosen to include several of these in this notice (*see* criterion D(5)). It is the Department's expectation, however, that professional development plans will be developed in response to data and to specific staff needs, rather than around the illustrative examples.

Changes: We have re-organized and revised criterion (D)(5) by inserting a new paragraph (i) and clarifying that the professional development, coaching, induction, and common planning and collaboration time provided to teachers and principals should, where appropriate, be ''ongoing and job-embedded.'' We also have added that such supports might focus, for example, on gathering, analyzing, and using data; designing instructional strategies for improvement; differentiating instruction; creating school environments supportive of data-informed decisions; designing instruction to meet the specific needs of high-need students (as defined in this notice); and aligning systems and removing barriers to effective implementation of practices designed to improve student learning outcomes.

Comment: Several commenters suggested that States should include teacher induction as a part of the high-quality plan they submit under criterion (D)(5). One commenter stated that new teachers require a strong induction program, or at a minimum, support and assistance from accomplished teachers to help them develop the skills needed to construct high-quality assessments and effectively diagnose student responses. Another commenter pointed out that studies show induction programs and other intensive supports for beginning teachers improve teacher retention, increase student achievement, and provide a significant return on investment. One commenter suggested requiring States to include in their plans

measures that take into account the unique professional development needs of new teachers and leaders, especially given the disproportionate number of new teachers and leaders working in high-need schools. Other commenters recommended that new teachers partner with effective and experienced teachers as an effective approach for addressing the unique needs of new teachers. One commenter recommended including structured mentoring from principals and teachers who have demonstrated success in turning around struggling schools.

Discussion: We agree that induction programs and coaching by accomplished teachers and principals can be important and effective strategies for supporting novice teachers and principals upon their entering the profession. We are revising the criterion to clarify that States' plans in response to this criterion should provide for coaching and induction programs as supports for teachers and principals.

Changes: We have revised criterion (D)(5)(i) to clarify that plans should include providing effective, data-informed ''coaching'' and ''induction.''

Comment: A few commenters stated that, in addition to providing positive conditions within which teachers can be successful, there are also barriers to success that should be eliminated. The greatest barrier cited is time—that teachers are not given sufficient time to collaborate, plan, or review data. Some commenters suggested that States should be required to determine whether or not school and classroom climates were conducive to teaching and learning, and thus supportive of teachers' efforts. One commenter contended that student learning is linked to educators' perceptions of the culture and context of their schools and a better understanding by administrators of these perceptions can help administrators address these barriers to success.

Discussion: The Department agrees that supporting teachers and principals includes ensuring that school environments are positive and conducive to teaching and learning, and that barriers to effectiveness are minimized.

Changes: In the list of supports that LEAs might provide to teachers and principals in criterion (D)(5)(i), we have added ''creating school environments supportive of data-informed decisions'' and ''aligning systems and removing barriers to effective implementation of practices designed to improve student learning outcomes.''

Comment: Two commenters insisted that the provision of content-rich professional development for STEM teachers is imperative. One commenter suggested that States provide high-quality teacher education programs, including immersion experiences both in the U.S. and abroad, for foreign language teachers. A few commenters argued for the provision of professional development designed specifically to meet the needs of teachers working with diverse populations, including students with disabilities, gifted and talented students, Native Americans, and English language learners.

Discussion: All teachers, including teachers working with the students in the areas and subjects mentioned by the commenters, should have access to high-quality professional development and support. As LEAs and States collaborate to develop their plans for providing support to teachers and principals, we expect they will identify the various types of professional development and other supports necessary for different teachers and principals. For this reason, we do not believe it is necessary to reference specific subject areas or student populations in criterion (D)(5). In addition, the Department clarified language in the definition of *alternative routes to certification* to note that ''standard features'' of such a program would include ''high-quality instruction in pedagogy and in addressing the needs of all students in the classroom including English language learners and students with disabilities.''

Changes: None.

Comment: Several commenters suggested including opportunities for improving professional learning for support personnel.

Discussion: All adults in a school, including support personnel, play an important role in creating a school culture of high expectations and share responsibility for student success. While the focus of States' plans in response to criterion (D)(5) should be on support for teachers and principals, States may choose to include in their plans professional development opportunities and support for individuals other than teachers and leaders, such as support personnel.

Changes: None.

Comment: One commenter suggested that professional development aimed at improving teacher and principal quality should include investing in technical assistance for implementation of the Positive Behavior Support model.

Discussion: The Department cannot assume all schools need to implement a particular reform model. Inclusion of examples of different types of professional development in this notice, does not, however, preclude States and LEAs from providing more specific supports based on student data and the individual needs of teachers and leaders to improve the effectiveness of instruction for improving student outcomes.

Changes: None.

Comment: One commenter suggested integrating family, school, and community engagement into professional development opportunities. Another commenter suggested that such opportunities should include training parents in partnership with professionals.

Discussion: The Department recognizes the need for family and community engagement in schools. While several examples of professional development opportunities in this area have been included, LEAs and schools are encouraged to utilize data to inform program development to meet local needs. As noted previously, States may choose to include in their plans professional development opportunities and support for individuals other than teachers and leaders, including parents.

Changes: None.

Comment: Several commenters endorsed the Department's goal to provide support for teachers and principals but contended that professional development opportunities and other support services should also be provided for individuals working with students outside of the regular school day. Such individuals might include youth development professionals, expanded learning providers, and those working in schools for over-age and under-credited youth. Commenters pointed out that students should have access to engaging learning opportunities throughout the continuum of their learning day. They argued that individuals from other agencies or sources outside the school working with students in these programs need professional support and training to enable them to align their services with school goals to improve student outcomes.

Discussion: The Department supports the coordination of services and opportunities for high-need students across schools, State agencies, and community partners. For this reason, the Department has included in this notice an invitational priority specifically addressing the coordination of services across various agencies and community partners. (*See* priority 5: Invitational priority—P–20 Coordination, Vertical and Horizontal Alignment). If a State elects to address this invitational priority in its application, it could choose to include

in its plan any professional development or support activities that are needed to align services to improve student outcomes. Again, as stated previously, States may also choose to include in their plans professional development opportunities and support for individuals other than teachers and leaders.

Changes: None.

Comment: Several commenters encouraged the Department to require States to provide guidance to LEAs in developing evaluation plans that are designed to examine the impact of professional development opportunities. One commenter stated that such evaluation plans should be designed to provide data on the impact of professional development on leadership, instruction, and student achievement. One commenter argued that States and LEAs need to engage in inquiry, analysis, and reflection about the results of professional development as a means for improving its quality. The commenter further stated that comprehensive evaluation plans would capture data to inform leadership actions for allocating resources as well as for aligning staff, policies, and structures to improve student learning and teacher effectiveness outcomes.

Discussion: We agree that the supports provided to teachers and principals should be continuously measured to improve the effectiveness of those supports. We also agree that the purpose of this measurement and improvement is to ensure that the supports result in improved student achievement. While that was our intent in the NPP, we believe that we should more clearly state that intent in this notice. Accordingly, we are revising criterion (D)(5)(ii) to that effect. We believe that the resulting language sufficiently addresses the commenters' suggestion about evaluation plans. The Department expects that, through the process of working with LEAs, States will determine what guidance LEAs may need to help them continuously measure and improve the supports they provide to teachers and principals.

Changes: We have reorganized and revised criterion (D)(5) by adding criterion (D)(5)(ii) and clarifying that the measurement, evaluation, and improvement of the effectiveness of the supports provided to teachers and principals is conducted in order to improve student achievement.

Comment: Several commenters expressed concern with using rapid-time student data to inform and guide the support provided to teachers and principals. Many of these commenters recommended removing this language from proposed criterion (C)(5). One commenter noted that while the Department's call for providing effective support for teachers and principals is appreciated, the language in the final notice should place a greater emphasis on vital supports rather than on the utilization of rapid-time data to inform it. A few commenters agreed that student data provide a useful tool for guiding instruction but argued that an undue emphasis on rapid-time student data will have a negative impact on overall data quality for improving outcomes. They stated that student data alone is not sufficient for evaluating and improving teaching effectiveness, and argued that a variety of evaluation techniques are needed to capture the breadth of effective teaching and professional practice. They suggested that teacher support is better informed through the incorporation of portfolio assessments, review of lesson plans, self-assessments, teaching artifacts, classroom observation, and feedback on teaching practice. Another commenter noted that utilization of rapid-time student data is far too limited as a concept and practice, and argued that the emphasis should be on building comprehensive professional learning systems that can be integrated into building the capacity of all schools to serve children well.

Discussion: The Department is persuaded by the concerns expressed by the commenters regarding using rapid-time student data to inform and guide the support provided to teachers and principals. Accordingly, we are removing this language from criterion (D)(5).

Changes: The phrase ''use rapid-time (as defined in this notice) student data to inform and guide the support provided to teachers and principals'' has been removed from criterion (D)(5).

Comment: One commenter suggested revising the notice to provide funds for professional learning to help educators improve the knowledge and skills that will enable them to do their jobs well. Another commenter expressed concern that there are not enough funds to design and implement the professional development required to improve teaching and learning. One commenter recommended specifying that States that have reduced funding for professional development activities should be penalized in their applications. The commenter also recommended that Race to the Top funding should be used to ensure that meaningful standards-based professional development activities are provided.

Discussion: States must include a description of how they will use Race to the Top funds to accomplish their plans and meet their targets. It is up to the States to determine how much funding to designate for providing support to teachers and principals under criterion (D)(5). In response to the recommendation that States be penalized for reducing professional development funding, we note that, under criterion (F)(1), States will be evaluated based on the extent to which they have made education funding a priority. We do not believe it is necessary to include a criterion specific to funding for professional development.

Changes: None.

Comment: None.

Discussion: We are revising some of the evidence and performance measures to be consistent with the changes made to criterion (D) in this notice. In some instances we also are revising the evidence and performance measures to provide greater clarity.

Changes: Appendix A, Evidence and Performance Measures, criterion (D) Great Teachers and Leaders, has been revised to reflect the changes made to criterion (D) and to provide greater clarity.

E. Turning Around the Lowest-Achieving Schools

Definitions: increased learning time, persistently lowest-achieving schools.

Comments regarding the preceding definitions are addressed, as appropriate, below.

Introduction

A central purpose of ARRA funds is to increase the academic achievement of students in struggling schools. As a result, the Notices of Proposed Requirements (NPRs) regarding the State Fiscal Stabilization Fund Phase II and the School Improvement Grants programs, as well as the Race to the Top NPP, each included requirements related to struggling schools. The most explicit requirements were included in the School Improvement Grants NPR that was published in the **Federal Register** on August 26, 2009 (74 FR 43101), in which the Department proposed four rigorous school intervention models—turnaround, restart, school closure, and transformation—that an LEA seeking School Improvement Grant funds would implement in the lowest-achieving Title I schools in improvement, corrective action, or restructuring identified by each State and could also implement in secondary schools that are eligible for, but do not receive, Title I funds. Commenters on each notice recommended that the Department

make the identity of, and requirements for, struggling schools consistent among all three programs. We agree with these comments and, in response, have revised the four school intervention models and are integrating them into the criteria, definitions, and requirements for all three programs. In addition, we have developed a definition of *persistently lowest-achieving schools* to substitute for ''schools in the lowest five percent'' (Stabilization Fund) and *persistently lowest-performing schools* (Race to the Top) for use in all three programs.

Because both the Stabilization Fund and Race to the Top notices of final requirements are being published prior to the final School Improvement Grants notice, we have published the requirements for the four models in the final notice for the Stabilization Fund, are including them in Appendix C to this final notice, and will incorporate them into the final School Improvement Grants notice when it is issued. In order to clarify and fully explain the definition of persistently lowest-achieving schools and the changes that we made to the four models, we also are including in this notice the comments and responses related to the definition and those models from the School Improvement Grants NPR. In the following sections, we first discuss the comments we received on struggling schools in reply to the Race to the Top NPP and our responses. We then discuss the comments we received related to the definition and the four intervention models as proposed in the School Improvement Grants NPR and our responses to those comments.

Selection Criterion (E)(1): Intervening in the Lowest-Achieving Schools and LEAs (Proposed Selection Criterion (D)(1)):

Comment: None.

Discussion: The Department is changing the headings in this section to describe ''lowest-achieving schools'' instead of ''lowest-performing schools'' to be consistent with the revised definition of *persistently lowest-achieving schools,* which is based primarily on achievement scores and not on broader measures of school performance, as suggested by the headings in the NPP. We also are replacing the phrase ''struggling schools'' with ''persistently lowest-achieving schools'' to avoid confusion on this subject.

Changes: The Department has changed the terms ''lowest-performing schools'' and ''struggling schools'' to ''persistently lowest-achieving schools'' throughout this notice.

Comment: Several commenters expressed support for criterion (E)(1) (proposed criterion (D)(1)), which will examine the extent to which a State has the legal, statutory, or regulatory authority to intervene directly in its persistently lowest-achieving schools (as defined in this notice) and in LEAs identified for improvement or corrective action under the ESEA. Two of these commenters proposed that the Department require additional information about a State's authority to intervene, including examples of when and how the authority had been used and any available evaluation of State plans and processes for using the authority. Another commenter recommended that States receive extra points for aggressive use of any authority to intervene in low-performing schools and LEAs.

Discussion: Criterion (E)(1) is intended to reward States based on the extent to which they have the legal authority to intervene directly in their persistently lowest-achieving schools, as well as in LEAs identified for improvement or corrective action. The Department believes that such authority to intervene is important for a State's ability to hold LEAs accountable for turning around their persistently lowest-achieving schools. However, the Department is not seeking to encourage direct State intervention per se; the language of criterion (E)(2) (proposed criterion (D)(3)) makes clear that the primary role of a State with regard to its persistently lowest-achieving schools is to ''identify'' and ''support its LEAs in turning around these schools by implementing one of the four school intervention models.'' For this reason, the Department declines to require States to provide more information about their implementation of this authority or to award ''extra points'' to States that have demonstrated ''aggressive'' use of such authority.

Changes: None.

Comment: Many commenters appeared to misunderstand the impact of criterion (E)(1) that a State's application for a Race to the Top grant describe the extent to which it has the legal, statutory, or regulatory authority to intervene directly in its lowest-performing schools and in LEAs identified for improvement or corrective action. For example, some of these commenters appeared to believe that the criterion itself would provide States the authority to intervene in their lowest-performing schools and LEAs; these commenters objected to such authority on the grounds that school improvement must be locally based and not imposed by the Federal Government. Other commenters expressed concerns about the processes, procedures, and funding for any State intervention in schools and LEAs. Commenters also claimed that State intervention in schools and LEAs would violate State constitutions, that most States did not have the capacity to support effective intervention, and that many such efforts in the past had ended in failure.

Discussion: The purpose of criterion (E)(1) is to reward States for, and encourage them to have, the authority to intervene, if necessary, in their persistently lowest-achieving schools and LEAs that are in improvement or corrective action status. The Department believes that States that have such authority are in a stronger position to hold LEAs and schools accountable for implementing effective school intervention strategies, particularly in cases where LEAs or schools continue to fail their students year after year. Criterion (E)(1) will give States credit only for having the authority to intervene, and not for actual intervention. This criterion is not intended to encourage such interventions by States; rather, it recognizes that, in cases where LEAs are unwilling or unable to successfully implement the school intervention models required by section (E)(2) of this notice, State intervention may be both appropriate and necessary. However, we also believe that as States build State and local capacity to turn around their persistently lowest-achieving schools, they should have fewer and fewer reasons for direct intervention.

Changes: None.

Selection Criterion (E)(2): Turning Around the Lowest-Achieving Schools (Proposed Selection Criterion (D)(3)):

Comment: None.

Discussion: As discussed in the introduction to this section, we are replacing the models described in proposed criterion (D)(3) of the NPP with the four models that have been developed in response to public comments across all three notices. The four school intervention models are (1) a turnaround model, which would involve, among other actions, replacing the principal and rehiring no more than 50 percent of the school's staff, adopting a new governance structure, and implementing a research-based and vertically aligned instructional program; (2) a restart model, in which an LEA would convert a school or close and reopen a school under the management of a charter school operator, a charter management organization (CMO), or an educational management organization (EMO) that has been selected through a rigorous review process; (3) a school

closure model, in which an LEA would close the school and enroll the students who attended the school in other, higher-achieving schools in the LEA; and (4) a transformation model, which would address four specific areas critical to transforming a persistently lowest-achieving school. Each of these models is described in detail in Appendix C of this notice.

Changes: We have removed the description of the school intervention models in criterion (E)(2), which now provides for a State to have a high-quality plan and ambitious yet achievable annual targets for (1) identifying its persistently lowest-achieving schools (as defined in this notice) and, at the State's discretion, any non-Title I eligible secondary schools that would be considered persistently lowest-achieving schools if they were eligible to receive Title I funds, and (2) supporting its LEAs in turning around these schools by implementing one of the four school intervention models adopted from the School Improvement Grants program: a turnaround model, restart model, school closure, or transformation model (provided that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools). These models are described in detail in Appendix C of this notice.

Comment: Several commenters supported the strategies in criterion (E)(2) for turning around the lowest-achieving schools, but many commenters objected to these strategies as too prescriptive, overly focused on governance issues, poorly grounded in research, and not truly innovative. Several commenters, in particular, focused on what they described as the punitive nature of the proposed school intervention models due to the emphasis on leadership and staff replacement, charter school conversions, turning over operations to outside management, and closing schools. Others believed that these strategies would prove ''unrealistic'' in many areas, with one commenter claiming that they ''simply won't work in our rural/frontier State.'' A few commenters observed that limiting school intervention options as proposed in criterion (E)(2) appeared to be contrary to the Secretary's stated commitment to be ''tight on goals and loose on the means.'' In response to such concerns, many of these commenters called for greater flexibility to adopt other school intervention models, including those that they claimed were grounded in research, as well as the option of continuing existing school intervention strategies that were achieving positive results. Several commenters identified other reform strategies that they believe should be included in the school intervention options under (E)(2), including common planning time for teachers, career pathways or career cluster programs, inquiry-based and applied learning strategies, such as service learning, summer camp, character education, magnet schools, improving school library programs, and the use of technology as part of school intervention models. Other recommended strategies included, for example, the involvement of teachers in school-based decision-making, district and union leadership support for school staff, providing additional trained staff to support classroom needs, smaller class sizes, the promotion of a safe and orderly school climate, and a focus on students' social, emotional, and health needs.

Discussion: The Department recognizes that there are other reform models and interventions not identified in the NPP that can be successful in turning around the persistently lowest-achieving schools. We also understand that no single reform model will be effective in every State or every district. However, the school intervention models in criterion (E)(2) focus on dramatic change, including significant changes in leadership and staffing, because they are targeted to the nation's persistently lowest-achieving schools, which in most cases have not responded to multiple earlier school improvement and turnaround efforts. Research indicates that fundamental, comprehensive changes in leadership, staffing, and governance hold the greatest promise for bringing about the improvements in school structure, climate, and culture that are required to break the cycle of chronic educational failure. In addition, the commenters' focus on staffing and governance issues led them to overlook the significant flexibility provided to adopt specific reforms such as teacher involvement in decision-making and smaller class sizes. A key purpose of changes in leadership and governance is to promote greater school-based flexibility over things that matter, such as hiring effective teachers, increasing time for both instruction and staff collaboration, and control over budget decisions. The Department recognizes that implementing these turnaround models will be challenging for LEAs, and expects State plans to include technical assistance and other support, including support for successful turnarounds in rural and other areas that may need to overcome a variety of resource limitations. Further, as noted in Appendix C, if a school identified as persistently lowest-achieving has implemented an intervention or part of an intervention in the last two years that meets the requirements of the turnaround, restart, or transformation models, the school may continue or complete its work.

Changes: Criterion (E)(2) replaces the school intervention models proposed in criterion (D)(3) of the NPP with the four models adopted from the School Improvement Grants program and described in Appendix C of this notice.

The Role of States and LEAs in School Intervention

Comment: One commenter recommended that the Race to the Top application require States to explain how they will meet the existing ESEA requirements regarding schools identified for improvement. Other commenters called for States and LEAs to propose their own intervention plans on the basis of evidence from research and evaluation, including ''charter-like'' options, or to build on current turnaround efforts. Similarly, another commenter recommended requiring States to explain how they will combine governance changes with transformation models to improve teaching and learning. One commenter called for LEAs to propose their own school intervention strategies to their States, which could mandate alternatives if the LEA proposals were not rigorous enough. Two commenters, however, called for States, not LEAs, to mandate required school interventions based on their own analyses of those schools' low performance.

Discussion: States and LEAs have had considerable flexibility in implementing the school improvement provisions under section 1116 of the ESEA; unfortunately there is little evidence of success, as the number of schools in the final stage of improvement—restructuring—has nearly tripled over the past few years, to about 5,000 schools. The emphasis of the ARRA on turning around struggling schools reflects, in part, the response of the Congress to this limited success of ESEA school improvement measures in turning around chronically low-performing schools. States and LEAs are expected to use other ARRA funds, including the State Fiscal Stabilization Fund, Title I Grants to Local Educational Agencies, and Title I School Improvement Grants, to carry out the school improvement requirements of the ESEA. Under the Race to the Top program, the

Department is asking States to raise the bar for school improvement by agreeing to undertake, in addition to existing ESEA school improvement activities, dramatic changes and improvement in their persistently lowest-achieving schools, drawing from a set of models that the Department believes holds the greatest promise for breaking the cycle of chronic educational failure in these schools. States and LEAs are not required to use these models—they are part of the criteria for the Race to the Top competition, not eligibility requirements—but States that agree to support the interventions required by criterion (E)(2) will earn points that will strengthen their overall Race to the Top application and increase their chances of winning a Race to the Top grant. In general, the Department anticipates that LEAs will select the appropriate school intervention models and that States will support LEAs in implementing these models. However, criterion (E)(1), which will assess a State's authority to intervene directly in its persistently lowest-achieving schools and LEAs that are identified for improvement or corrective action under the ESEA, reflects the Department's recognition that some States may wish, or in some States it may be necessary, to take additional actions.

This final notice, like the NPP, does include criteria that allow States to earn points for their own existing or planned efforts to support effective school interventions. Criterion (F)(3) (proposed criterion (E)(1)(iii)) provides that a State will receive points if the State, through law, regulation, or policy, has created other conditions supporting education reform and innovation that are not addressed under other State Reform Conditions Criteria and that have increased student achievement or graduation rates, narrowed achievement gaps or resulted in other important outcomes.

Changes: Criterion (F)(3) has been revised to measure the extent to which a State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

LEA Capacity

Comment: Several commenters recommended an increased focus on the LEA role in school interventions. Three commenters observed that States should be required to provide technical assistance to LEAs to increase their capacity to support school-level reform, and four commenters recommended that the final notice require States to specify the LEA role in, and capacity to manage, school interventions that will be required under their Race to the Top plans.

Discussion: We agree that participating LEAs will play a leading role in implementing school intervention models, and that States should help build LEA capacity to fulfill this role effectively. In criterion (A)(2)(i)(b), States will be evaluated based upon their plans to support participating LEAs (as defined in this notice) in successfully implementing the State's Race to the Top plans, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs (as defined in this notice) accountable for progress and performance, and, if necessary, intervening directly to effectively implement school intervention models. The Department declines to specify the LEA role in the school intervention models, as this role will vary based on local capacity and circumstances. We want to give States and LEAs flexibility to define the LEA role both in State reform plans and in the MOUs completed by participating LEAs (as defined in this notice).

Changes: None.

Number of School Interventions

Comment: Several commenters requested that the Department clarify how a State determines the schools that it must target for intervention under section (E)(2). Another commenter expressed concern about the potentially low number of schools that would be subject to school intervention options under the proposed requirements; in particular, this commenter worried that the combination of required Title I status and varying rates of State identification of schools for improvement under section 1116 of the ESEA could significantly limit the application of Race to the Top school intervention requirements, particularly to the lowest-performing high schools. The commenter suggested replacing the proposed ''bottom five percent'' approach with a requirement to turn around the lowest-performing one percent of all schools annually, with the one-percent cap applied separately to elementary/middle schools and high schools. This commenter added that interventions should include schools with generally high performance that serve significant numbers of students who are not performing well. Another commenter stated that linking the number of schools that a State must turn around to the number of schools identified for improvement under the ESEA would penalize States with more ambitious AYP criteria. Finally, one commenter asked how schools would exit the ''bottom five percent status'' described in the NPP.

Discussion: The Department agrees that the language in the NPP, in combination with the proposed definition of *persistently lowest-performing schools*, was unclear and potentially created confusion about how States would identify schools for the interventions described in criterion (E)(2). We also recognize the concerns of commenters that the criteria in the NPP could lead some States to identify too few schools for intervention efforts. In response, the Department has (1) modified the definition of the term *persistently lowest-achieving schools* and (2) modified criterion (E)(2) to give States discretion to identify for intervention any non-Title I eligible public secondary school that would be considered a persistently lowest-achieving school (as defined in this notice) if it were eligible to receive Title I funds. The Department believes that these changes will ensure that States identify a sufficient number of schools to target for intervention efforts and that such efforts are not limited by the Title I status of the State's lowest-achieving schools. As for how schools would exit the persistently lowest-achieving schools (as defined in this notice) category, we note that the purpose of this category, consistent with criterion (E)(2), is to identify schools in which LEAs will implement one of four school intervention models. For this purpose, a school in which one of these models has been implemented would no longer be subject to intervention, but may remain on a State's list of persistently lowest-achieving schools as long as it meets one of the criteria in the definition of persistently lowest-achieving schools.

Changes: We have revised the definition of *persistently lowest-achieving schools* to mean, as determined by the State: (i) 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 (ii) 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.

To identify the lowest-achieving schools, a State must take into account both (i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

Governance Issues

Comment: One commenter did not agree with the perceived emphasis in the NPP on existing school governance as the cause of school failure, or that there is research or other evidence that changing lines of authority or reporting will help turn around a low-performing school. This commenter added that the Secretary has indicated that he supports partnerships between school boards and mayors, as opposed, for example, to a mayor taking direct control of a school district. Another commenter suggested an additional governance-based intervention option, for a school that already has undergone unsuccessful restructuring, involving placement of the school under the direct control of the district's superintendent or establishing a ''professional learning community'' in partnership with another school district.

Discussion: Changing school governance can take a variety of forms, and different solutions may be appropriate to different situations. One possible option consistent with this final notice is conversion to a charter school or management by a CMO or EMO. Another possibility, suggested by one commenter, would be for a superintendent or someone reporting directly to the superintendent to oversee turnaround schools. Alternatively, a mayor might, in consultation with the local school board, create an office charged with supervising turnaround efforts, or a State might directly intervene with a takeover. The Department understands and agrees that none of these governance changes is a ''silver bullet'' for low-achieving schools, but believes each may help to create the conditions of autonomy and flexibility that are associated with successful turnaround efforts.

Changes: None.

Replacing Leadership and Staff

Comment: Many commenters opposed replacing school leadership and staff as part of the school intervention models required by proposed criterion (D)(3) and now described in detail in Appendix C, with some commenters claiming that research shows that staff replacement is an ineffective reform strategy, others stating that such strategies are not really an option in many communities that already face teacher and principal shortages, and a few commenters arguing that fear of what might be perceived as arbitrary dismissals associated with school intervention models could create a disincentive for talented teachers and principals to work in struggling schools. Another commenter, however, generally supported the emphasis on changing leadership, citing research showing that principals are the second most important factor contributing to student achievement, after classroom instruction. A number of other commenters recommended changes to the staff and leadership replacement requirements in these models, including (1) giving the new leadership under the turnaround model greater flexibility to make its own firing and hiring decisions instead of simply requiring the replacement of a ''majority'' of staff; (2) requiring all staff to reapply for their positions as long as the principal has full authority to hire either former staff or staff from outside the school; (3) retaining leadership and staff if they support the rest of the turnaround plan; (4) retaining at least 50 percent of current staff who reapply and meet all of the requirements of the redesigned school; and (5) focusing on staff qualifications and putting in place effective staff rather than on a particular target level of replacements. One commenter requested clarification of the terms ''new leadership'' and ''a majority of new staff.'' A few commenters sought greater flexibility for principals under the school intervention models, including the option of retaining principals who have had a positive impact on student outcomes or were recently hired and giving current principals a minimum of two years to improve before being replaced. Other commenters stated that replacement principals should be required to have a record of significantly increasing student achievement at similar schools, or that new leadership should have a ''documented likelihood'' of successfully raising student achievement. One commenter recommended modifying the first three school intervention models—turnaround, restart, and school closure—to include provisions for consensual placement (*i.e.*, with the agreement of the hiring school) of staff that lose their jobs due to implementation of these options or, in the absence of such consensual placement, release from employment.

Discussion: The Secretary understands that replacing leadership and staff is one of the most difficult aspects of the school intervention models required by criterion (E)(2). However, he also believes that in our lowest-achieving schools, many of which have failed to improve despite repeated earlier interventions, dramatic changes in leadership and staffing can be the key to creating the new climate and culture needed to break the cycle of educational failure. On the other hand, while we believe the required intervention models leave room to accommodate many of the flexibilities requested by these commenters, the four school intervention models adopted from the School Improvement Grants program and described in detail in Appendix C specifically include several of the changes suggested by commenters. For example, we have clarified that by ''new leadership'' under the turnaround model, we mean the principal of the school, and that by requiring ''a majority of new staff'' in a turnaround school we mean that no more than 50 percent of existing staff may be rehired. Also, the turnaround model adopted from the School Improvement Grants program now must include giving the new principal significant operating flexibility in areas such as staffing, school calendar and scheduling, and budgeting. In addition, in determining which staff to rehire, LEAs must use locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students. Also, a principal hired in the past two years as part of a planned intervention would have time to continue or complete the intervention as part of one of the four models. Moreover, there is nothing in the models described in Appendix C to this notice that would prevent a State or LEA from requiring replacement principals or other school leaders to have a record of success in previous assignments. As for consensual placement policies, such issues are best

resolved at the State and local level in the context of existing collective bargaining agreements. Finally, while the implementation or potential implementation of dramatic school intervention models could encourage some effective principals and teachers to leave or not seek employment in the lowest-achieving schools, the Race to the Top and other Federal programs also are creating incentives and providing resources that can be used to reward effective teachers and principals and improve strategies for recruitment, retention, and professional development. Moreover, the flexibilities for improving teaching and learning and the focus on school improvement that are created by the intervention models in criterion (E)(2) are equally likely to draw talented new leaders and staff to schools implementing these models.

Changes: We have replaced the interventions outlined in proposed criterion (D)(3) (new (E)(2)) with the four school intervention models adopted from the School Improvement Grants program and described in detail in Appendix C of this final notice.

Impact of Collective Bargaining Agreements on Intervention Options

Comment: Several commenters stated that because the school intervention models referenced in criterion (E)(2) include provisions that would affect collective bargaining agreements related to staffing, time, evaluation, and compensation, such options would have to be locally negotiated by the collective bargaining representative. One commenter also noted that the hiring and firing of teachers and principals required by the proposed intervention options currently are limited by State law. Another commenter added that interventions should be subject to due process.

Discussion: The Department recognizes that State and local Race to the Top plans, including school intervention models implemented as part of these plans, may have an impact on issues covered by collective bargaining agreements, and agrees that such issues would have to be negotiated within the context of these agreements. The Department urges LEAs to work with teacher unions and teacher membership associations to resolve such issues, as well as other legal and regulatory barriers to successful implementation of school intervention models. To encourage such collaboration and partnership, one measure of an LEA's strong commitment to a State's Race to the Top plan is the signature of the local teachers' union leader on the Memoranda of Understanding or other binding agreements completed by participating LEAs (as defined in this notice) under criterion (A)(1)(ii)(c). In addition, criterion (A)(2)(ii)(a) calls for States to demonstrate support for their Race to the Top plans by obtaining statements or actions of support from, among other stakeholders, State teachers' unions or statewide teacher associations. As stated elsewhere in this notice, the concerns raised by commenters are not insurmountable, and the Secretary believes that LEAs and unions can work together to make the changes required to turn around our persistently lowest-achieving schools.

Changes: None.

The Role of Charter Schools

Comment: Several commenters recommended that State school intervention plans include the use of the charter school model both to improve the persistently lowest-achieving schools (as defined in this notice) and to create a large number of new high-quality charter schools to better serve students currently attending such schools. However, two commenters said that the criteria in proposed section (D) for turning around the persistently lowest-achieving schools (as defined in this notice) relied too heavily on charter schools; one of them noted that charters originally were intended as ''experimental incubators for education change'' and not as the ''parallel educational system'' that they claimed would be promoted by the NPP.

Discussion: We believe strongly that high-performing charter schools can be especially valuable in communities where chronically low-performing traditional public schools have failed to improve after years of conventional efforts to turn them around. In such cases, high-performing charter schools, whether created through the conversion of a traditional public school enrolling the same students or by establishing a new school that provides an alternative to the regular public schools, can offer promising and proven options for breaking the cycle of educational failure. At the same time, we acknowledge that the placement of the proposed charter schools criterion (D)(2) in the struggling schools section in the NPP potentially gave the impression that the NPP was emphasizing charter school expansion as the primary strategy for turning around the nation's lowest-achieving schools. This was not the intention. Proposed criterion (D)(2) was aimed more broadly at measuring the extent to which a State had created the conditions supporting an increase in the number of high-performing charter schools (as defined in this notice). Additionally, restart schools based on the charter school model are only one of the four school intervention models required in section (E)(2) of this notice. We are therefore moving proposed criterion (D)(2) to (F)(2) in this notice to help clarify that a State's support for increasing the number of high-performing charter schools is only part of its overall Race to the Top plan, including its efforts to turn around its lowest-achieving schools. Also, we believe that the new criterion (F)(2) will better communicate the emphasis not just on increasing the number of charter schools, but on increasing the number of high-performing charter schools (as defined in this notice). Finally, new criterion (F)(2)(v) will give States credit for the extent to which they enable LEAs to operate innovative, autonomous public schools other than charter schools.

Changes: Proposed criterion (D)(2), Increasing the Supply of High-Quality Charter Schools, has been renamed Ensuring Successful Conditions for High-Performing Charter Schools and Other Innovative Schools and moved to (F)(2) in this final notice. In addition, new criterion (F)(2)(v) will give States credit for the extent to which they enable LEAs to operate innovative, autonomous public schools other than charter schools. We have added a definition of innovative, autonomous public schools to give greater clarity to new criterion (F)(2)(v).

Charter School Conversions

Comment: Several commenters recommended modifying the proposed charter school restart option to emphasize the need to first close a school and then re-open it as a charter school, rather than directly convert an existing low-performing school into a charter school. Two other commenters urged the Department to require intervention planning to be done while students still attend their current school. These commenters stressed the importance of ensuring that charter schools ''start fresh with the student body and fully implement their own approach.'' One commenter emphasized that the selection of the charter school conversion option should result in ''schools of choice''—schools chosen by both students who enroll and the staff who work there—to create the sense of shared commitment and high expectations that have characterized the most successful existing charter schools.

Discussion: The Department understands that charter school supporters and operators have different ideas about the best way to create high-

performing charter schools. When using a charter school conversion as a restart option, LEAs and charter school operators should endeavor to strike a balance between allowing sufficient time for planning and reconfiguring an existing school and moving quickly enough to minimize disruption to students, parents, teachers, and other staff. One way to do this would be to utilize, wherever possible, charter school operators, CMOs, or EMOs with experience in converting existing schools to new management. In addition, every effort should be made to permit and encourage previously enrolled students to enroll in the new charter school. The primary purpose of turning around the lowest-achieving schools is to give the students in those schools the high-quality education they deserve and need to prepare for further education, college, and careers.

Changes: The restart model, as described in paragraph (b) of Appendix C, specifically allows for an LEA to convert a school or close and reopen a school under a charter school operator, a CMO, or an EMO that has been selected through a rigorous review process.

Education Management Organizations

Comment: A few commenters questioned the proposed role for EMOs in school interventions, raising concerns about the research base underlying the use of EMOs and how they would be held accountable. One commenter recommended that the Secretary consider requiring EMOs to have a demonstrated record of success in managing schools before they are used as part of a school intervention strategy, and also recommended that EMOs be prohibited from refusing to serve certain students based on student needs. One commenter added that charter schools should be required to have a demonstrated track record of success.

Discussion: The Department agrees that LEAs should carefully screen EMOs before using them as part of a school intervention model. The restart model adopted from the School Improvement Grants program, and described in Appendix C to this notice, requires the use of an EMO ''that has been selected through a rigorous review process,'' which may include an examination of an EMO's record of success in managing schools as well as an analysis of the extent to which EMOs have served students with diverse educational needs. Charter school operators and CMOs would be subject to the same review requirement under a restart model.

Changes: The restart model, described in detail in Appendix C, states that the organization chosen to restart the school should be ''selected through a rigorous review process.''

School Closures

Comment: Several commenters objected to closing schools, either as part of a charter conversion or the school closure model under criterion (E)(2), because such actions can displace students and disrupt communities. One commenter added that the impact of closing schools may be particularly severe in minority communities, where there may not be a higher-performing school nearby, while another observed that closing schools is not always possible in rural areas. Other commenters variously recommended that school closing be used as a school intervention option only when a high-performing school is available as an alternative, is in close proximity to the closed school, and has room to accommodate new students. Another commenter recommended that LEAs promote the use of inter-district transfers for students in closed schools. Finally, concerns about the impact of closures led one commenter to recommend that school intervention efforts be targeted on existing schools, as opposed to charter school conversion or school closing.

Discussion: The Department recognizes that school interventions, regardless of the strategy or option selected, may lead to some displacement and disruption for both students and adults. LEAs and schools should work together to facilitate a smooth transition, particularly for students and families, when schools are closed as part of school intervention plans. We agree that inter-district transfers could help to mitigate the impact of school closures, and LEAs are already encouraged to promote such transfer options under section 1116(b)(11) of the ESEA. Also, school closing is just one of four available school intervention options in this final notice; it may not be appropriate or even possible for some LEAs. In particular, the school closure model adopted from the School Improvement Grants program in this notice states that a school to which students from a closed school are transferred must be ''within reasonable proximity'' to the closed school.

Changes: The school closure model adopted from the School Improvement Grants program and described in Appendix C to this final notice states that ''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 within reasonable proximity to the closed school and that are higher-achieving.''

Elevating the School Transformation Model

Comment: Many commenters recommended that the final notice elevate the fourth option, the school transformation model, to the same status as the first three school intervention options, rather than a last resort if the first three are not possible. Some of these commenters also asserted that the transformation model may be among the most promising of school intervention options, particularly when it involves a comprehensive approach to turning around low-performing schools that includes systemic behavioral and learning supports, a safe and orderly climate, promotion of students' social-emotional skills and capacities, and the kind of collaborative working environment where staff are empowered to support students. Two commenters added that the ''additional learning opportunities and supports referenced'' in the transformation model, as described in the NPP, should be required under the other school intervention models as well. Another commenter asserted that there ''is no basis in scholarly research'' for subordinating the transformation model to the other three school intervention options. One commenter urged that the fourth option be elevated and that the first three options be deemphasized. Another commenter recommended that a State first implement the non-staffing requirements of the transformation model—improving strategies for recruitment, retention, and professional development; implementing a comprehensive instructional program; extending learning time and utilizing community-oriented supports; and promoting family and community engagement—for ''a reasonable time'' before undertaking school governance and staffing changes such as those required by the other school intervention models described in criterion (E)(2) (proposed (D)(3)). However, one commenter urged, consistent with the NPP, that the transformation model be a last resort only, such as in a remote rural school district that could find it impossible to replace most of the staff at one of its schools.

Discussion: The Department agrees with commenters who recommended broader latitude for LEAs to use the transformation model to turn around their persistently lowest-achieving schools. Criterion (E)(2) includes a

transformation model as one of the four models adopted from the School Improvement Grants program and described in detail in Appendix C of this notice. The final notice also removes the provision in proposed criterion (D)(3) that the transformation model can be used only if the other strategies are not possible. However, we are also adding language to criterion (E)(2) specifying that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools.

And while the Department does not agree that the elements of the transformation model should be required under the turnaround and restart models, largely because doing so would undermine the flexibility to innovate that is a key benefit of changing governance and leadership or a charter school conversion, the turnaround model described in Appendix C specifically permits the implementation of ''any of the required and permissible activities under the transformation model.'' However, the Department declines the suggestion by one commenter to deemphasize the other options, primarily because we believe that changing governance, leadership, and staff often are essential for turning around the lowest-achieving schools; we also note that such actions (*i.e.*, replacing the principal and removing ineffective staff) are required by the transformation model.

Changes: Criterion (E)(2) (proposed (D)(3)) no longer limits the adoption of the transformation model, as described in Appendix C, as a ''last resort'' when it is not possible for an LEA to implement one of the other school intervention models. Instead, it specifies that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools.

Modifications to School Intervention Options

Comment: Several commenters proposed modifications to the school intervention models set forth in criterion (E)(2) (proposed (D)(3)). For example, one commenter recommended that schools subject to intervention implement either the turnaround model or the transformation model for three years; if these reforms are unsuccessful the schools would then be required to convert to a charter school, accept CMO or EMO management, or close. Another commenter recommended combining the first and fourth models due to their similarity.

Discussion: The Department recognizes that there are other ways to structure school intervention models. However, our goal with respect to criterion (E)(2) is to signal a decisive break with the past, rather than simply to create a new school improvement timeline with a menu of interventions, in order to successfully turn around as many of the nation's lowest-achieving schools as possible. As for combining the first and fourth models, the commenter appears to have overlooked the significant changes in staffing and governance that are central to the turnaround model but not required under the transformation model. For these reasons, and as described elsewhere in this notice, the school intervention models adopted from the School Improvement Grants program and described in Appendix C of this notice generally retain the structure and timeline proposed in the NPP, except that the transformation model no longer is limited to situations where it is not possible for an LEA to implement one of the other three models.

Changes: None.

Continuation of Existing School Intervention Models

Comment: One commenter requested that the final notice clarify whether a school that brought in a CMO or EMO two or three years ago would be required under criterion (E)(2) to start over with a new intervention.

Discussion: Appendix C, which describes the school intervention models that we are adopting from the School Improvement Grants program, includes language stating that if a school identified as a persistently lowest-achieving school has implemented, in whole or in part within the last two years, an intervention that meets the requirements of the turnaround, restart, or transformation models, the school may continue or complete the intervention being implemented.

Changes: We have included the following language at the end of Appendix C: ''If a school identified as a persistently lowest-achieving school has implemented, in whole or in part within the last two years, an intervention that meets the requirements of the turnaround, restart, or transformation models, the school may continue or complete the intervention being implemented.''

Instructional Reform

Comment: Numerous commenters supported comprehensive instructional reform, including differentiated instruction and a standards-based, common curriculum, as a school intervention strategy. One commenter observed that many chronically low-performing schools have been reconstituted or restructured more than once, with multiple leadership and staffing changes, without success. This commenter urged the Secretary to recognize that in many cases LEAs must work to improve the skills of existing staff by establishing a fifth ''Comprehensive Instructional Reform'' option that would emphasize curriculum, new instructional approaches, and supports that promise success. However, another commenter emphasized that ''comprehensive instructional reform'' should not be a single model, as this could create barriers to differentiated instruction.

Discussion: The transformation model provides flexibility for LEAs to implement comprehensive instructional reform without significant staff changes. In addition, the final notice no longer limits the application of this model to situations where the other three intervention models—turnaround, restart, and school closure—are not possible. We also note that the transformation model described in Appendix C requires ongoing, high-quality, job-embedded professional development in areas such as subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, and differentiated instruction.

Changes: None.

Increased Learning Time

Comment: Several commenters supported the inclusion of extended learning time in the turnaround and transformation models, while others recommended that all school intervention models include the provision of extended learning time. A number of other commenters requested that the Department define the term ''extended learning time'' to include before- and after-school programs as well as summer learning programs, while one other commenter requested that the Department define the term but did not advocate for a particular definition. Several of these commenters recommended using the term ''expanded learning time'' instead of ''extended learning time.'' A few other commenters urged the Department to promote additional compensation for teachers who teach during extended school hours, while several others advocated for extended learning time strategies that involve outside community partners. One of these commenters warned that extended learning time should not be ''more of the same.'' Instead, according to this

comment, State Race to the Top plans should describe how States and LEAs will ensure that expanded learning time is used to introduce students to new, more effective methods of instruction. This commenter also recommended that the Department give preference to proposals that increase learning time by 30 to 50 percent, consistent with the amount added by the highest-performing charter schools.

Discussion: The Department agrees that increased learning time (as defined in this notice) can drive significant increases in student achievement. Though we know that community-based organizations can play a key role in providing these services in some places, we decline to give preference to such efforts in this competition. States and participating LEAs may choose to engage community-based organizations in efforts to increase learning time as described in the State's plan. We appreciate the commenter's suggestion to give preference to proposals that increase learning time by 30 to 50 percent, but decline to unnecessarily limit SEA and LEA flexibility by specifying the exact threshold that such efforts must meet to be considered as having increased learning time (as defined in this notice). To avoid confusion with other initiatives, we have replaced extended learning time with *increased learning time* and defined the term to mean using a longer school day, week, or year. Lastly, we chose not to require that States provide additional compensation for teachers in extending the school day; we expect that States will establish appropriate policies as part of the development of their State plans in consultation with key stakeholders.

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

School and Community Partnerships

Comment: One commenter recommended requiring school and community partnerships under all four school intervention options, in particular to help transform schools into centers of their communities and to support expanded learning time, and to provide comprehensive learning supports, more time for enrichment activities, and ongoing mechanisms for family engagement and community support.

Discussion: The transformation model adopted from the School Improvement Grants program and described in Appendix C of this notice includes as a major strategy for increasing learning time and creating community-oriented schools, as well as a specific requirement to provide ''ongoing mechanisms for family and community engagement.'' In addition, the turnaround model, which also is described in detail in Appendix C, requires ''schedules and strategies that provide increased learning time'' and ''community-oriented services and supports for students,'' while also permitting the adoption of family- and community-based strategies identified in the transformation model. However, the Department declines to add this requirement to the other school intervention models, which are focused in large part on governance changes that emphasize autonomy and flexibility for a school to pursue its own priorities and activities.

Changes: None.

Dropout Re-Engagement and Recovery

Comment: Several commenters advocated the inclusion of programs for re-enrolling or re-engaging high school dropouts to the school intervention models in criterion (E)(2) (proposed (D)(3)), such as ''data-driven dropout re-engagement'' and the addition of dropout recovery models as an element of the transformation model. Another commenter called for multiple pathways—including school-work partnerships, diploma-plus programs, and dual enrollment programs—and credit based on student performance rather than instructional time as successful models for educating struggling students as well as dropouts. Three other commenters advocated credit recovery programs, and one commenter recommended the inclusion of small schools that draw on the best practices from research on re-enrolling high school dropouts.

Discussion: The Department agrees that school intervention models should include an emphasis on keeping struggling students in school and re-engaging youth who have dropped out of high school. For example, the transformation model adopted from the School Improvement Grants program provides that LEAs may implement the following activities aimed at increasing graduation rates: Credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and math skills. In addition, the transformation model also provides that LEAs may implement other comprehensive instructional reform strategies, such as improving the transition from middle to high school through summer transition programs or freshman academies, and increasing rigor by offering opportunities to enroll in advanced coursework, early-college high schools, dual-enrollment programs, or thematic learning academies that prepare students for college and careers, including supports to help low-achieving students take advantage of these programs.

Changes: We have adopted a transformation model from the School Improvement Grants program that includes, as permissible activities under the comprehensive instructional reform strategies component, (1) increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate programs; 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; and (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.

Additions to Performance Measures

Comment: Several commenters proposed additions to the performance measures for criterion (E)(2). Three

commenters recommended the inclusion of indicators of the effectiveness of school intervention models, not just the number of schools adopting each strategy, and one commenter suggested collecting student proficiency data for schools implementing one of the intervention models. Another commenter recommended the addition of indicators of school climate, such as the number of suspensions and ratings of school safety. One commenter recommended adding the increase in the number of alternative schools for re-engaging students who have dropped out or the increase in the number of students served by such schools. One commenter also recommended changing the performance measure for criterion (E)(2) to focus on the percentage of the lowest-performing schools, rather than the number of such schools, in which the first three school intervention options will be implemented. Finally, one commenter recommended that the performance measures include assurances of a whole-school goal-setting process and the guaranteed use of interim or formative assessments.

Discussion: The Department agrees that there is a wide range of potentially useful performance data that could be collected about State and local efforts to turn around their persistently lowest-achieving schools, and we will be collecting such data through other grants and data collections. In addition, we note that, under the ESEA, States are already required to publicly report student proficiency data by school. The primary purpose of the proposed performance measure for criterion (E)(2) is for States to set goals for themselves. At the time it applies for a Race to the Top grant, a State may not have determined the specific schools in which its LEAs will intervene; therefore, the most appropriate goal for a State to set is the number of schools in which it will support interventions each year.

Changes: None.

Attention to Student Subgroups

Comment: A few commenters recommended that the final notice require all four school intervention models to include plans for meeting the educational needs of students with disabilities, English language learners, and other subgroups.

Discussion: The Department has addressed this issue through criterion (A)(1)(iii), which will measure the extent to which a State's Race to the Top plan will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for increasing student achievement in (at a minimum) reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA, decreasing achievement gaps between subgroups, increasing high school graduation rates (as defined in this notice), and increasing college enrollment and credit attainment. States will not be able to reach these goals unless their State and local plans address the needs of the student subgroups cited by the commenters. Consequently, there is no need to include new requirements regarding student subgroups in the school intervention models described in detail in Appendix C to this notice.

Changes: None.

Comments and Responses on the SIG NPR

As noted earlier, the following discussion summarizes the comments we received, and our responses, on the ''Tier I'' and ''Tier II'' schools proposed in the SIG NPR that are now included in the definition of *persistently lowest-achieving schools.* The discussion also summarizes the comments and our responses on the four school intervention models proposed in the SIG NPR.

Definition of Persistently Lowest-Achieving Schools

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

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

Several commenters also suggested changing the method for determining ''lack of progress,'' including using subgroups rather than the ''all students'' group, measuring progress in meeting adequate yearly progress targets, and narrowing achievement gaps. Another commenter recommended clarifying that, even if a school shows gains greater than the State average, it should not be considered to be making progress if those gains are not greater than zero.

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

Discussion: In developing our proposed definition of the lowest-achieving five percent of schools for each State as defined in the SIG NPR, we considered several alternatives, including the use of the existing ESEA improvement categories and the possibility of using a measure that would identify the lowest-achieving five percent of schools in the Nation rather than on a State-by-State basis. The goal was to identify a uniform measure that could be applied easily by all States using existing assessment data. We started with Title I schools in improvement, corrective action, or restructuring as the initial universe from which to select the lowest-achieving schools because those are the schools eligible to receive SIG funds. ESEA improvement categories were deemed too dependent on variations in individual subgroup performance, rather than the overall performance of an entire school, to reliably identify our

worst schools. A nationwide measure, although appealing from the perspective of national education policy, would likely have identified many schools in a handful of States and few or none in the majority of States, making it an inappropriate guide for the most effective use of State formula grant funds.

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

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

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

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

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

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

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

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

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

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

General Comments on the Four Intervention Models

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

Conversely, several commenters suggested that the four interventions are too prescriptive and do not leave room for State innovation and discretion to fashion similarly rigorous interventions that may be more workable in a particular State. The commenters noted that for some school districts, particularly the most rural districts, none of the interventions may be feasible solutions. In addition, several commenters rejected the idea that there should be any Federal requirements governing struggling schools. The commenters suggested that schools in need of improvement be permitted to engage in self-improvement strategies

tailored to each individual school's needs as determined at the local level based on local data, rather than being mandated to adopt specific models by the Federal Government.

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

Changes: None.

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

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

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

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

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

Changes: None.

Turnaround Model

Principal and Staff Replacement

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

In addition, many commenters opposed sanctioning principals and staff, partly because, as one commenter claimed, the turnaround model assumes that most problems in a school are attributable to these individuals. One

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

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

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

Changes: None.

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

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

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

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

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

Changes: We have modified the provisions in the turnaround model in paragraph (a)(1)(i) to give the new principal of a turnaround school ''sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates.'' As described earlier, we have also revised paragraph (a)(1)(ii) to require that an LEA use locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students. In addition, instead of the requirement that an LEA replace ''at least 50 percent of the staff'' in a turnaround school, paragraph (a)(1)(ii)(A) of the definition requires an LEA to screen and rehire ''no more than 50 percent'' of the existing staff.

Comment: Numerous commenters expressed concerns that a national shortage of principals and teachers would prevent successful implementation of the turnaround model. Two commenters stated that, in order to replace half of the staff as required by the turnaround model, an LEA would likely be forced to hire less experienced teachers and rely on emergency credentials or licensure to fully staff a turnaround school. One commenter claimed that research shows that large pools of available applicants are essential for successful replacement of principals and teachers. Another commenter stated that there is a ''national shortage of transformational leaders'' who can lead turnaround schools. Further, many commenters claimed that replacing half of a school's staff would be difficult or even impossible in rural schools and small communities. One commenter asserted that the shortage of teachers in rural areas would disqualify these LEAs from applying for school improvement funds. Another stated that even with recruitment incentives it would be difficult to fill staff vacancies. One commenter urged the Secretary to take such shortages into account before requiring ''blanket firings'' of teachers. In addition, several commenters observed that chronically low-

performing schools already suffer from a number of vacancies due to high staff turnover rates. In fact, one commenter believed replacing 50 percent of the staff was not a ''tough'' consequence because these schools already experience high turnover.

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

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

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

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

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

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

Changes: None.

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

Several commenters called for the Department to foster collaboration with teacher unions as well as the larger community. One of these commenters claimed that collaboration ''increases leadership and builds professionalism'' and recommended that evidence of collaboration be documented. Another asserted the involvement of school-based personnel in decision-making is key to the successful implementation of school interventions. Another recommended that an LEA seek ''feedback'' from all stakeholders, including students, parents, and unions, as to whether an intervention is ''feasible or warranted.''

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

Changes: None.

Comment: Many commenters stated that the term ''staff'' was not clearly defined. One commenter presumed it excluded maintenance, food services, and other support staff. Another stated that the Department should allow LEAs

to develop their own definition of ''staff,'' and permit LEAs to determine whether non-instructional staff should be included in the replacement calculus. Two commenters also requested greater clarity regarding the meaning of ''new governance.''

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

Changes: None.

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

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

Changes: None.

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

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

Changes: None.

Relationship Between Turnaround and Transformation Models

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

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

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

Restart Model

Comment: Many commenters opposed the restart model described in the SIG NPR because, they claimed, charter schools generally do not perform better than regular public schools. In particular, these commenters cited recent research from the Center for Research on Education Outcomes (CREDO) at Stanford University showing that fewer than one-fifth of charter schools demonstrated gains in student achievement that exceeded those of traditional public schools. One commenter also mentioned a RAND study highlighting the low performance of charter schools in Texas and a study by researchers at Johns Hopkins University showing that most EMO-operated schools were outperformed by traditional public schools. Most of these commenters proposed broadening or

strengthening the restart option, but one commenter recommended removing it from the list of permitted school intervention models. One commenter claimed that, where charter schools had raised student achievement, in most cases it was attributable to high student attrition rates brought about by demanding school schedules and behavioral rules that did not work for all students. A few commenters noted either that some States do not allow charter schools or that the restart model would be unlikely to work in rural areas. Several commenters also opposed the restart model because it might displace students and disrupt existing efforts to build community schools; another commenter recommended that any planning and reorganization for a restart model take place during the school year, while students remain in the school, so that there would be no disruption in services if the school were closed and then reopened as a restart school.

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

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

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

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

Defining Rigorous Review

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

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

Changes: None.

Clarifying Restart Operator Definitions

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

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

The Department does not believe it is necessary to add new or additional reporting requirements for EMOs and CMOs, as their performance will be captured by the reporting metrics established in the final SIG notice. More specifically, SEAs and LEAs already must report on the intervention model used for each persistently lowest-achieving school, as well as outcome data for those schools, including

outcome data disaggregated by student subgroups. As for providing SIG funding directly to CMOs and EMOs, the SIG program is a State formula grant program, and the Department must allocate funds to States in accordance with the requirements of section 1003(g) of the ESEA. Moreover, the only eligible SIG subgrantees are LEAs.

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

Flexibility Under the Restart Model

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

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

Changes: None.

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

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

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

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

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

Changes: None.

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

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

Changes: None.

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

implement their own cultures and practices.

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

Changes: None.

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

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

Changes: None.

School Closure

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

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

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

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

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

in the process, we decline to add any additional requirements in this area of appropriate local discretion.

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

Changes: None.

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

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

Changes: None.

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

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

Changes: None.

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

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

Changes: None.

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

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

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

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

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

Changes: None.

Transformation Model

General Comments

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

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

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

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

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

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

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

Changes: None.

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

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

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

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

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

Changes: None.

Developing and Increasing Teacher and School Leader Effectiveness

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

Discussion: The Secretary appreciates the commenters' support.

Changes: None.

Comment: One commenter suggested adding the word ''ensuring'' in the heading of the component of the transformation model that requires developing teacher and school leader effectiveness. Another suggested changing the heading to ''providing teachers and school leaders with the resources and tools needed to be effective.''

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

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

Comment: Many commenters, many of whom were principals or represented principals, opposed the requirement to

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

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

Changes: None.

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

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

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

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

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

Changes: None.

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

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

Changes: None.

Comment: Many commenters reacted to the requirement in the SIG NPR to use evaluations that are based in significant measure on student growth to improve teachers' and school leaders' performance. A few commenters supported the requirement; most opposed it for a number of reasons. Many commenters objected specifically to assessing teacher effectiveness using testing instruments not designed for that purpose. One commenter noted that standardized assessments are designed to measure students' ready retrieval of knowledge and do not accurately attribute student learning to particular lessons, pedagogical strategies, or individual teachers. In addition, the commenter noted that such assessments do not measure qualities like student motivation, intellectual readiness, persistence, creativity, or the ability to apply knowledge and work productively with others. One commenter asserted that State assessments are generally of low quality and measure a narrow range of student learning. The commenter also noted that assessments do not acknowledge the contributions (or lack thereof) of others, such as prior teachers, towards student achievement. Two commenters argued that State assessments do not provide information about the conditions in which learning occurs and over which a teacher has no control, such as class size, student demographics, or instructional resources. One commenter asserted that State assessments fail to capture academic growth with respect to students with disabilities. A number of commenters proposed other academic and nonacademic measures for evaluating teachers and school leaders, such as standards-based evaluations of practice that include such criteria as observations of lesson preparation, content, and delivery; innovation in teaching practices; analyses of student work and other measures of student learning, such as writing samples, grades, goals in individualized education programs for students with disabilities, and ''capstone'' projects such as end-of-course research papers; assessment of commitment and ability to use feedback and data to learn and improve practices; one-on-one teaching; staff leadership and mentoring skills; conflict resolution skills; crisis management experience; extra-curricular roles and contributions to a school; and relationships with parents and the community.

Discussion: We respect and agree with the commenters' concerns that student achievement data alone should not be used as the sole means to evaluate teachers and principals. We must develop and support better measures that take into account student achievement and more accurately measure teacher and principal performance. Accordingly, we have revised the transformation model's evaluation systems provision to require that these systems take into account student growth data as a significant factor, but also include other factors ''such as multiple observation-based assessments of performance and

ongoing collections of professional practice reflective of student achievement and increased high-school graduation rates.'' We have also clarified that those systems must be rigorous, transparent, and equitable and that they must be designed and developed with teacher and principal involvement.

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

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

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

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

Changes: None.

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

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

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

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

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

Changes: None.

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

Discussion: We appreciate the many excellent suggestions for additional areas on which professional development should focus. With one exception, we decline to add examples. We could never list all relevant topics for strong professional development, which must be tailored to the needs of staff in particular schools, and we would not want to suggest that topics not listed were, thus, less worthy of addressing.

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

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

instruction, the commenter recommended that the Secretary require a school to have a system for measuring changes in instructional practices resulting from professional development in order to evaluate its efficacy.

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

Changes: None.

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

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

Changes: None.

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

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

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

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

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

Changes: None.

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

Discussion: We decline to make the suggested change. Although we support the need to modify collective bargaining agreements if they impede efforts to attract and retain qualified staff in the persistently lowest-achieving schools, we do not believe we can or should prescribe the specific terms of those agreements.

Changes: None.

Comprehensive Instructional Reform Strategies

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

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

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

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

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

Changes: None.

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

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

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

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

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

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

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

Discussion: The Secretary agrees that technology can be an important tool for supporting instruction, and we are adding as a permissible activity the suggestion to use and integrate technology-based supports and interventions as part of a school's instructional program. Although online instructional programs might be part of a school's system of technology-based supports, we decline to mention it specifically. Online instructional programs, if research-based, are one of many ways to meet the needs of students in struggling schools, particularly to provide courses or programs that schools in rural or remote areas cannot otherwise provide. We cannot mention in this notice, however, each and every type of instructional program.

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

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

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

Changes: None. However, we have clarified in paragraph (a)(2)(ii) that a turnaround model may include a new

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

Increasing Learning Time and Creating Community-Oriented Schools

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

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

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

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

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

Changes: None.

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

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

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

Changes: None.

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

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

Changes: None.

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

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

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

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

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

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

Comment: One commenter recommended that the Department

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

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

Changes: None.

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

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

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

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

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

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

Increased learning time means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.[8]

Providing Operating Flexibility and Sustained Support

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

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

Changes: None.

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

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

Changes: None.

Comment: One commenter cautioned about the use of ''weighted per-pupil school-based budgeting,'' noting that early research indicates this practice undermines cross-school cooperation by promoting competition among schools for students and the resources or liabilities they may represent.

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

Changes: None.

F. General Selection Criteria

Comment: None.

Discussion: As part of an overall effort to reorganize and clarify the State Reform Conditions Criteria and State Reform Plan Criteria in this notice, the Department is creating a new section (F), which includes both new criteria and criteria that were included in the NPP under other sections. These changes are described in greater detail below.

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

Changes: Criterion (F)(1)(i) incorporated proposed criterion (E)(2) on making education funding a priority. New criterion (F)(1)(ii) examines the extent to which a State's policies lead to equitable funding (a) between high-need LEAs (as defined in this notice) and other LEAs, and (b) within LEAs, between high-poverty schools (as defined in this notice) and other schools. Criterion (F)(2)(i) through (iv) incorporate the criteria regarding charter schools from proposed criterion (D)(2). Criterion (F)(2)(v) is a new criterion that will examine the extent to which a State enables LEAs to operate innovative, autonomous public schools other than charter schools. Criterion (F)(3) incorporates a revised version of proposed criterion (E)(1)(iii).

Selection Criterion (F)(1): Making education funding a priority (Proposed Selection Criterion (E)(2)) Funding and Facilities:

Comment: Many commenters objected to criterion (F)(1)(i) (proposed (E)(2)), which will measure the extent to which the percentage of total State revenues used to support education in FY 2009 was greater than or equal to the percentage in FY 2008. A number of commenters stated that this one-year snapshot of education financing would examine too narrow a period of time, thereby favoring wealthy States. Some commenters, therefore, recommended looking at a minimum of five years of financial data. Similarly, some commenters argued that criterion (F)(1)(i) should be consistent with the ''maintenance of effort'' (MOE) requirement in section 14005(d)(1)(A) of the ARRA, which requires States to assure in their State Fiscal Stabilization Fund applications that they will spend at least as much on K–12 public education in fiscal years 2009, 2010, and 2011 as they did in fiscal year 2006. One commenter recommended that the minimum proposed evidence for criterion (F)(1)(i) include the extent to which State-level K–12 education capital financing as a percentage of total State capital financing has increased, decreased, or remained the same in the last five fiscal years. One commenter sought clarification that criterion (F)(1)(i) is not intended to prejudice States that used State Fiscal Stabilization Funds to fill budget shortfalls. Other commenters stated that this criterion did not go far enough, because if total State revenues fell, a State could earn points even if it was cutting funding for education.

Discussion: The Department believes that States that have protected education funding from disproportionate cuts over the past two years deserve recognition of this fact in their Race to the Top applications. We also believe that recent evidence of a State's commitment to adequately fund education is more important for evaluating its Race to the Top application than data from four or five years ago.

Section 14005(d)(1)(A) of the ARRA sets forth a condition for receiving a formula award from the State Fiscal Stabilization Fund; this requirement does not apply to section 14006 of the ARRA, which authorizes the Race to the Top program. Instead, criterion (F)(1)(i) is consistent with the waiver for the State Fiscal Stabilization Fund MOE requirement, which the Secretary has already granted to a number of States. The two-year comparison used in criterion (F)(1)(i) reflects the Department's understanding of the difficult choices that many States have been forced to make in the recent economic recession, while at the same time recognizing that States that have made education funding a priority in such difficult budgetary times are better positioned to successfully implement their Race to the Top plans.

Changes: None.

Comment: Some commenters suggested that the Department allow States to explain their education expenditures in the context of their overall economic situation. One commenter requested clarification as to what financial data the Department will look at when examining State support for education funding.

Discussion: We believe that States' responses to criterion (F)(1)(i) will be judged most accurately and reliably if, per the language in this notice, States describe changes in education spending in relation to changes in revenues available to the State. This creates more comparability between States than would be achieved by allowing States to explain their economic situations.

Changes: None.

Comment: Many commenters asserted that it was important to consider whether States were meeting obligations to fund education adequately and equitably. Two commenters emphasized the importance of funding equity for schools implementing a school intervention model, recommending that State plans include information on the extent to which their lowest-performing schools receive equitable funding for operations and facilities as compared to their highest-performing schools. Another commenter stated that funding adequacy and equity are especially critical for high-need LEAs serving concentrations of poor and minority students. Finally, one commenter added that States should provide additional resources, such as technical assistance and funding, to allow struggling schools to implement school intervention models.

Discussion: We agree with the principle that all students should benefit from at least similar levels of education resources regardless of where they live or attend school. We are adding criterion (F)(1)(ii), which will examine the extent to which a State's policies lead to equitable funding (a) between high-need LEAs and other LEAs, and (b) within LEAs, between high-poverty schools and other schools. Closer attention by States to funding equity will help ensure that high-need LEAs and high-poverty schools, which are a particular focus of Race to the Top plans, are receiving sufficient State and local educational resources to serve their students. Also, developing and funding budgets that are sufficient in size and scope to successfully implement school intervention models in the persistently lowest-achieving schools, including high-poverty and high-minority schools, will be a critical element of State Race to the top plans, in accordance with the statewide capacity building criteria in section (A)(2) of this notice. Successful State applicants and their participating LEAs (as defined in this notice) will be able to use State Fiscal Stabilization Fund Phase Two, Race to the Top, and School Improvement Grant funding to ensure that all targeted schools have sufficient resources to effectively implement selected school intervention models.

Changes: We have added criterion (F)(1)(ii) to the final notice to consider the extent to which a State's policies lead to equitable funding between high-need LEAs and other LEAs and, within LEAs, between high-poverty schools and other schools.

Comment: None.

Discussion: As stated earlier, in order to reduce redundancy and the burden on States, we are combining proposed criteria (E)(1)(i) and (E)(1)(ii) into one criterion and designating it as criterion (A)(3)(i).

Changes: Criterion (A)(3)(i) provides for an examination of the extent to which a State has made progress over the past several years in each of the four education reform areas, and used its ARRA and other Federal and State funding to pursue such reforms.

Selection Criterion (F)(2): Ensuring successful conditions for high-performing charter schools and other innovative schools (Proposed Selection Criterion (D)(2)):

Definitions: Comments regarding the definitions of *high-performing charter*

school and *innovative, autonomous public schools* are addressed, as appropriate, below.

Overall Charter School Comments

Comment: Many commenters supported criterion (F)(2) (proposed criterion (D)(2)), which is intended to increase the supply of high-performing charter schools, including provisions to remove limits on the numbers or enrollment of public charter schools in a State, efforts to strengthen the charter school authorizing process, and ensuring equitable funding both for the regular operations of public charter schools and for charter school facilities. Two commenters urged the Department to ensure that the definition of charter schools in (F)(2) include virtual charter schools. There was, however, some confusion about the potential impact of these criteria, with one commenter asserting that States that do not meet the criteria should be ineligible for Race to the Top grants and another urging the Department to clarify that removing ''caps'' on charter schools is not a pre-requisite for Race to the Top participation. Other commenters expressed concern that not meeting criterion (F)(2) would penalize the students and schools in their States by making them ineligible for a Race to the Top grant. Many other commenters objected to the emphasis on charter schools because of extensive research suggesting that many charter schools perform no better than regular public schools in raising student achievement. Other commenters objected to charter schools because, they said, most charter schools ''merely serve to drain the most motivated parents and students from the existing district public schools'' and give the appearance of an effort to ''privatize'' public education. Several commenters argued that the emphasis on charter schools failed to respect State authority in this area, noting that 11 States do not have charter school laws, citing one example where voters had rejected charter schools in multiple ballot initiatives, and suggesting that resource limitations in rural States can make the creation of charter schools difficult, if not impossible. One of these commenters also suggested that States without charter school laws receive credit for laws allowing similarly innovative ''charter-like'' schools, including virtual schools. Several commenters urged the Department, in examining State charter school laws under criterion (F)(2), to ''benchmark'' those laws against the model State charter school law developed by the National Alliance for Public Charter Schools. Two commenters asked the Department to include a definition of ''high-quality charter schools'' in the final notice, with one stating that increasing the number of charter schools makes sense only if charter schools are held to a standard at least as high, if not higher, than that of traditional public schools.

Similarly, one commenter also asserted that many regular public schools demonstrate the creativity, innovation, and continuous improvement claimed by the proponents of charter schools.

Discussion: The Department appreciates the many comments in support of the goal of increasing the number of high-performing charter schools, both as a strategy to help turn around the persistently lowest-achieving schools and to increase the educational options for students attending such schools. It is important to clarify, however, that criterion (F)(2) was never intended to determine eligibility for Race to the Top grants; rather, this provision represented one criterion by which a State that had taken certain steps to increase the supply of high-performing charter schools could earn points in the Race to the Top competition. The Secretary recognizes that the available research on the effectiveness of charter schools in raising student achievement is mixed, that some State laws significantly limit the creation or expansion of charter schools, that charter schools compete with the regular public schools for resources and teaching talent, and that smaller communities, particularly in rural areas, may not have sufficient resources and talent to support the creation of charter schools. However, the Secretary also believes that high-performing charter schools can be an educational lifeline in communities with chronically low-achieving regular public schools. In such cases, charter schools, whether created through the conversion of a regular public school enrolling the same students or by establishing a new school that provides an alternative to the regular public schools, offer one of the most promising and proven options for breaking the cycle of educational failure. The provisions in criterion (F)(2), taken as whole, are intended to reward States that have taken steps not just to facilitate the opening of new charter schools (which may include virtual charter schools), but to set high standards for charter school operators, provide them with an equitable share of public funding for operations and facilities, and hold them accountable for their performance. To support this emphasis on high standards for charter schools and charter school operators, we are revising criterion (F)(2)(i) to refer to ''high-performing charter schools'' rather than charter schools. We also are adding a definition of *high-performing charter school* using language adapted from the Department's Public Charter School Program. At the same time, the Department believes that States should have flexibility in establishing charter school laws, and that, for the purposes of the Race to the Top competition, such laws should be judged on the extent to which they satisfy the criteria in this final notice, and not in relation to any particular model for such laws.

Finally, we acknowledge that charter school operators do not have a monopoly on educational innovation (*i.e.,* that charter schools are not a ''silver bullet'' for school interventions), and that many States, LEAs, and schools have developed alternative education reform models that are demonstrating success in raising student achievement and turning around low-achieving schools. Consequently, we are adding new criterion (F)(2)(v) regarding the extent to which States enable LEAs to operate innovative and autonomous public schools other than charter schools, and we are revising the title of this criterion to Ensuring Successful Conditions for High-Performing Charter Schools and Other Innovative Schools. We also are adding, as the evidence required for (F)(2)(v), a description of how the State has met this criterion. Finally, we are adding a definition of *innovative, autonomous public schools* to give greater clarity to new criterion (F)(2)(v).

Changes: We have incorporated the criteria from proposed criterion (D)(2) into criterion (F)(2), which has been renamed ''Ensuring Successful Conditions for High-Performing Charter Schools and Other Innovative Schools.'' We also have revised (F)(2)(i) to refer to ''increasing the number of high-performing charter schools'' rather than ''increasing the number of charter schools,'' as in proposed (D)(2)(i). We have added a definition of *high-performing charter school* and defined it to mean: ''a charter school that has been in operation for at least three consecutive years and has demonstrated overall success, including (a) substantial progress in improving student achievement (as defined in this notice); and (b) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.'' In addition, new criterion (F)(2)(v) rewards the extent to which ''[t]he State enables LEAs to operate innovative, autonomous public schools other than charter

schools,'' and we will require, as evidence for (F)(2)(v) described in Appendix A to this notice, a description of how the State enables LEAs to operate innovative, autonomous public schools other than charter schools. Finally, we have added a definition of *innovative, autonomous public schools* and defined it to mean: ''open enrollment public schools that, in return for increased accountability for student achievement (as defined in this notice), have the flexibility and authority to define their instructional models and associated curriculum; select and replace staff; implement new structures and formats for the school day or year; and control their budgets.''

Charter School Caps

Comment: Many commenters objected to the language in criterion (F)(2)(i) because they believed it would require the elimination of ''caps'' on the number of charter schools in a State. Some commenters claimed that decisions related to charter school caps, like other charter school matters, should be left to the States and should not be a condition for receipt of Race to the Top funds. Other commenters raised substantive objections to eliminating caps, arguing that limiting the number of charter schools in a State was essential to maintaining accountability for charter schools by ensuring that States had the capacity to oversee charter schools, provide sufficient resources and technical assistance to new charter schools, and protect the interests of students and parents. In this context, several commenters noted that recent research appeared to have highlighted an inverse relationship between the number of charter schools in a State and the quality of those charter schools. Other commenters sought clarification of specific issues related to charter school caps, such as whether a State could meet criterion (F)(2)(i) if it had ''plenty of room'' under its existing cap, if caps might be applied to new charter schools while permitting expansion by proven charter school operators, or whether a cap that currently is not inhibiting charter school growth might do so later at any point during the lifetime of a Race to the Top grant. One commenter also recommended that the final notice should focus on the measurable outcomes of charter schools rather than their numbers. Other commenters urged that any lifting of charter school caps should be accompanied by stronger accountability for charter schools, including compliance with conflict of interest and open meeting laws, accountability for student achievement, increased financial oversight, and the implementation of effective evaluation systems. Another commenter recommended conditioning increases in the number of charter schools on leadership by a certified principal, adoption of a ''whole child'' instructional program, and the non-discriminatory enrollment of high-need student populations. One commenter called for the final notice to require new charter schools to use either a ''model with a proven record of effectiveness or a new model with an evidence-based strategy.''

Discussion: Our intention with respect to criterion (F)(2)(i) was not to eliminate reasonable conditions established by States for the approval of new charter schools, but to discourage arbitrary limitations that impede the educational innovation that can accompany the creation of new charter schools or that prevent the expansion of successful charter school models in a State. Moreover, while removing such limitations would increase the number of points that a State could earn under the criteria in (F), retaining those limitations would not make a State ineligible for a Race to the Top award. The Department agrees that States should have the discretion to set their own requirements for new charter schools, and that, contrary to the suggestions of some commenters, prescribing the use of certain educational methods or models would undermine the flexibility to innovate that is the hallmark of high-performing charter school operators. On the other hand, criterion (F)(2)(ii) is intended to reward States for strong authorizing practices, including those related to the approval and re-approval, monitoring and accountability (including reporting measurable outcomes), and closure of ineffective charter schools.

Changes: None.

Charter School Authorizers

Comment: Many commenters emphasized the importance of charter school authorizers in increasing the number of charter schools and the effective use of the charter school model to turn around the persistently lowest-achieving schools. Several commenters called for greater accountability for charter school authorizers, including the collection of data on the performance of charter schools in each State broken down by authorizer and an explanation of the financial and educational obligations of charter school authorizers. However, one commenter warned that the NPP's focus on how many charter schools an authorizer has closed as an indicator of accountability may be misplaced, as it could simply mean that the authorizer lacked a rigorous approval process on the front-end. This commenter called for States to create a system for assessing the quality of an authorizer's initial review of charter school applications, as part of an overall charter school authorizer review and oversight process. Another commenter recommended that the Secretary consider the extent to which States evaluate authorizers in accordance with national standards for quality authorizing. One commenter also warned against encouraging States to relax approval criteria in order to demonstrate a greater number of approvals as evidence that they do not ''inhibit increasing the number of charter schools in the State.'' Finally, one commenter claimed that charter schools are more effective and accountable when authorized by the LEA in which they operate, and urged the Secretary to clarify in the final notice that such locally authorized charter schools are preferable to charter schools authorized by organizations ''outside the K–12 system.''

Discussion: The Secretary agrees with the commenters that charter school authorizers play a key role in promoting quality and accountability throughout the charter school movement. He has cited recent, disappointing research from the Center for Research on Education Outcomes at Stanford University on charter school effectiveness in raising student achievement as ''a wake-up call'' for the charter school community, and has called on charter school authorizers to set a higher bar for approval and do a better job of holding charter schools accountable for performance.[9] Criterion (F)(2)(ii), which examines the extent to which a State has laws, statutes, regulations or guidelines on how charter authorizers approve, monitor, hold accountable, reauthorize, and close charter schools, will help the Department determine which authorizers are responding to the Secretary's call. On the other hand, given the large number of charter school authorizers—roughly half of all charter schools are authorized by individual LEAs rather than statewide chartering organizations, as well as the need for flexibility on the part of authorizers to continue to support innovation and experimentation, the Department does not believe it would be appropriate to use the Race to the Top program to

[9] ''Multiple Choice: Charter School Performance in 16 States,'' Center for Research on Education Outcomes (CREDO), Stanford University, 2009, *http://credo.stanford.edu/*.

mandate any particular new standards or oversight for charter authorizers. Similarly, the Department declines to endorse one type of authorizer over another. On the other hand, in recognition of the fact that the financial and management performance of charter schools are important factors in authorizing and renewal decisions by charter school authorizers, the Department has revised criterion (F)(2)(ii) to state that the use of student achievement is ''one significant factor, among others,'' in decision-making by charter school authorizers. And in recognition of the important role charter schools should serve in meeting the needs of all students, especially high-need students, we have added to the criterion that authorizers should find ways to ''encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students.''

We also are revising the minimum evidence States should submit in response to this criterion. Appendix A provides that such evidence should include, among other items, for each of the past five years: The number of charter school applications made in the State; the number of charter school applications approved; the number of charter school applications denied, and the reasons for the denials. This additional data will support an assessment of the rigor of a State's approval process. We are not, however, requiring in this final notice that this data be disaggregated by charter school authorizer, primarily because the very large number of LEA charter school authorizers in many States would make such disaggregation overly burdensome.

Changes: We have revised (F)(2)(ii) to ''require that student achievement (as defined in this notice) be one significant factor, among others'' that charter school authorizers should take into account in approving, monitoring, holding accountable, reauthorizing, and closing charter schools. We have referenced ''student achievement,'' rather than the term ''student academic achievement'' used in the NPP, to be consistent with the definition of *student achievement* included in this final notice. We have also specified that authorizers should ''encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students.'' Finally, we have revised Appendix A to add to the minimum evidence required for evaluating a State's performance against criterion (F)(2)(ii) the number of charter school applications made in the State in each of the past five years, the number of charter school applications approved, the number of charter school applications denied, and reasons for the denial (academic, financial, low enrollment, other).

Ensuring Charter School Quality

Comment: Several commenters recommended modifications to criterion (F)(2). One commenter warned that without a strong focus on quality, the charter school option under a restart model (referenced in criterion (E)(2)(ii) and described in detail in Appendix C) could undermine school intervention efforts by potentially creating a ''loophole'' under which a change in governance might mask the absence of substantive changes within a persistently lowest-performing school. To avoid such outcomes, these commenters recommended that the criteria in (F)(2) be revised to require the use of charter school models with a demonstrated record of effectiveness, add the specific components of successful charter schools, and reward States that had increased the number of high-quality charter schools, in particular those that serve at-risk students. Another commenter recommended an emphasis on charter schools as laboratories for the development of best practices in such areas as offering rigorous college- and career-preparation options. On the other hand, some commenters encouraged the Department to promote broader and more flexible approaches to charter school authorization, such as encouraging statewide authorizers in States that currently allow only local school boards to approve charter schools.

Discussion: The Department agrees with the overall emphasis of commenters on efforts to improve the quality of charter schools; indeed this is a key goal of criterion (F)(2). However, we believe this goal is best accomplished through strengthening State and local authorizing practices and ensuring equitable funding for charter schools, rather than by requiring the use of particular charter school models or specifying the use of certain components in newly created charter schools. If charter schools are to continue to be ''laboratories for the development of best practices,'' as proposed by one commenter, they need flexibility to innovate, not cookie-cutter patterns to follow. The Department also declines to weigh in on the debate over State versus local chartering agencies, as such issues are best determined by the authorities involved. Finally, we believe that criterion (F)(2), together with the minimum proposed evidence for this criterion, will effectively reward States that have created the conditions for increasing the number of high-performing charter schools.

Changes: None.

Charter School Autonomy

Comment: Many supporters of charter schools stressed that they must have autonomy to innovate while continuing to be exempt from State rules and regulations governing the regular public schools. Some of these commenters recommended adding a new criterion to (F)(2) on the extent to which a State ensures that its charter schools have ''a high degree of autonomy'' over budgets, programs, staffing, curriculum, use of time, and general day-to-day operations. Other commenters wrote of an ''accountability gap'' between charter schools and regular public schools, arguing that charter schools are not held to the same standards as regular public schools. One commenter recommended, for example, that criterion (F)(2)(ii) on charter school authorizers ensure that charter schools are held to the same accountability requirements as traditional public schools. Another commenter cited widespread allegations of financial mismanagement related to charter schools. One commenter also proposed collection of data on whether charter schools offer a similar range of activities as non-charter public schools, such as physical education, recess, and science courses.

Discussion: We agree that autonomy and flexibility to innovate are essential characteristics of successful charter schools. On the other hand, it is clear that this autonomy must be accompanied by strong accountability for performance, and this is what the Department is emphasizing under criterion (F)(2)(ii), which addresses the role of charter school authorizers in approving, monitoring, holding accountable, reauthorizing, and closing charter schools. One key aspect of this strong accountability for charter authorizers will be the extent to which student achievement plays a significant role in their decisions to approve, re-approve, or close charter schools. Striking the right balance between autonomy and accountability is difficult, but the Department believes that recent evidence that too many charter schools are not fulfilling their promises to raise student achievement demands a tilt toward stronger accountability; consequently the Secretary declines to add a new criterion promoting charter school autonomy. However, suggestions by commenters that the Department

examine the extent to which charter schools look and operate like regular public schools appear to miss a key purpose of the charter school movement, which is to explore whether, by operating differently from the regular public schools, charter schools can achieve better results, particularly for those high-need students who for too long have been poorly served by the regular school system.

Changes: None.

Charter School Funding

Comment: Many commenters supported criterion (F)(2)(iii) (proposed criterion (D)(2)(iii)), which examines the extent to which a State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues. Other commenters recommended that the Department clarify the meaning of the term ''equitable funding'' for charter schools. Several commenters also recommended that the Department require States to report on the amount of funding provided for charter schools and charter school facilities in comparison to funding provided to traditional public schools. Other commenters opposed providing public funds, including facilities funding, to charter schools. Some commenters suggested linking funding for charter schools to student achievement, student characteristics, and the grade levels being served by those particular schools, as well as parental involvement.

Discussion: The Department appreciates the comments in support of ensuring more equitable treatment of charter schools, including the provision of equitable funding compared to traditional public schools. However, State and local funding systems, particularly as they relate to charter schools, are both complex and not always comparable, making it difficult to provide a universally applicable definition of ''equitable funding'' for charter schools or to develop and implement appropriate and reliable reporting metrics. We are making minor edits to criterion (F)(2)(iii) for the purpose of clarification, and we believe that the resulting language in the criterion, the guidance to reviewers provided in the Scoring Rubric in Appendix B, and the related minimum evidence requirements are sufficient to assess a State's progress in providing its charter schools with a commensurate share of local, State, and Federal revenues. We also do not agree with commenters who opposed public funding for charter schools. Charter schools are public schools, and should be entitled to an equitable share of local, State, and Federal education dollars like other public schools. States have developed funding systems that link funding for charter schools to student characteristics, such as poverty or disability status, but the Department is not aware of any public education system that links funding to student achievement or parental involvement, so evaluating States based on such linkages would have no impact on differentiating States for the purposes of this competition.

Changes: Criterion (F)(2)(iii) now reads, ''The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues.''

Charter School Facilities Funding

Comment: Many commenters expressed support for charter school facilities funding, which is the focus of criterion (F)(2)(iv) (proposed criterion (D)(2)(iv)). Several commenters recommended that the Department add language to this criterion to clarify that credit enhancement funds should be included when accounting for charter school facilities funding. Another commenter recommended the addition of language to criterion (F)(2)(iv) to require States to distribute facilities funding in an equitable manner. Other commenters recommended that charter schools be required to show sustainability before receiving facilities funding. One commenter suggested that the public should retain ownership interest in facilities that it finances.

Discussion: The Department understands that access to public facilities or funding for facilities is one of the major challenges confronting charter school operators, and is committed to helping charter schools secure facilities funding. However, we believe that criterion (F)(2)(iv) is sufficient to permit the Department to assess a State's commitment to and progress in supporting fair access to facilities and funding for facilities by public charter schools, including access to credit enhancement funds. As for the suggestion to add language on equitability to criterion (F)(2)(iv), it is not clear how this term would be meaningfully defined given that charter schools typically obtain access to facilities in markedly different ways than the regular public schools, which benefit from a half-century of public school construction, while charter schools may share public space, rent private space, or buy their own buildings. Determining what is ''equitable'' in these circumstances may be all but impossible. The Department does not agree with the recommendation that charter schools demonstrate sustainability before receiving facilities funding, since such a policy would represent a ''catch 22'' situation for many charter schools, which would have to demonstrate sustainability before receiving facilities funding, but often do not achieve sustainability until they have their own facilities. Finally, the issue of establishing a public ownership interest in publicly financed charter schools is a matter for State and local agencies that finance public charter schools.

Changes: None.

Comment: One commenter expressed concern that criterion (F)(2)(iv) referred to access to public facilities as an example of facilities supports States could provide to charter schools, claiming that opening up space in existing public schools to charter schools has led to overcrowding and larger class sizes.

Discussion: There is nothing in criterion (F)(2)(iv) that would require any State to adopt charter school facility access policies that lead to overcrowding and larger class sizes. The intent of this criterion is simply to ensure that States describe in their Race to the Top applications whether charter schools have equitable access to funding for facilities and to available public facilities. Local authorities would have discretion to make decisions about the feasibility of non-charter schools and charter schools sharing the same building, but this option is not required to meet criterion (F)(2)(iv).

Changes: None.

Charter School Metrics

Comment: A number of commenters proposed the collection of additional data and evidence related to the evaluation of a State's charter school policies and practices. Several commenters recommended that data collected on the number of schools closed by a State's charter school authorizers include a list of those that were closed due to academic reasons, financial issues, low enrollment, or mismanagement. Other commenters recommended that the final notice require States to provide the last five years of State charter school funding data so that the Department can examine the actual impact of State plans and statutory requirements for funding charter schools. Several commenters proposed that States provide information on the number of charter school applications over the past five

years, the number of charter schools approved and the number of students attending those schools, and reasons for the denial of other applications. One commenter also suggested that the States provide data comparing charter school performance with that of traditional public schools with similar demographic and other characteristics. Another commenter recommended requiring States to post on their web sites aggregate data comparing the ESEA improvement status of charter schools and regular public schools and to ensure that charter schools are audited in the same manner and with the same frequency as regular public schools.

Discussion: The NPP proposed the collection of the following minimum evidence related to criterion (F)(2) (proposed criterion (D)(2)): (1) A description of the State's charter school laws and a link or citation to the relevant statutory or regulatory sections; (2) the number and types of charter schools currently operating in the State; (3) a description of the State's approach to charter school accountability and authorization, and a copy of the State's applicable statutes, regulations, or other relevant documents; (4) the charter schools authorizers' historic performance on accountability, as evidenced by the number of charter schools closed or not renewed annually over the last five years, the reasons for each of these closures; (5) a copy of the State's applicable statutes, regulations, or other relevant legal documents with respect to equitable funding and facilities funding; (6) a description of the State's approach to charter school funding, the amount of funding passed through to charter schools per student and how these amounts compare with traditional per-student funding allocations; and (7) a description of the statewide facilities supports provided to charter schools, if any. The Department understands the desire of commenters for more and different types of data on charter schools, but is concerned about striking the right balance between collecting the data essential for evaluating Race to the Top applications and avoiding additional or duplicative burdens on States, charter school authorizers, charter schools, and LEAs. For example, charter school demographic and performance data, including AYP and identification for ESEA school improvement, generally are available from States and LEAs, but are not directly relevant to assessing a State's record in increasing the number of high-performing charter schools. Collecting actual funding data would be burdensome and, once collected, potentially difficult to analyze, particularly since about half of charter schools are authorized at the LEA and not the State level. The Department does believe, however, that additional, more detailed information on the charter school application process would be useful in measuring a State's performance under criterion (F)(2) without imposing significant additional burden on States and charter authorizers. For this reason, the final notice retains the required evidence set forth in the NPP and adds to the required evidence the number of charter applications received in each of the past five years, the number of applications approved and denied, and the reasons for denial.

Changes: We have revised Appendix A to add to the minimum evidence required for evaluating a State's performance against criterion (F)(2)(ii) the number of charter school applications made in the State in each of the past five years, the number of charter school applications approved, the number of charter school applications denied, and reasons for the denial (academic, financial, low enrollment, other).

Flexibility To Adopt Other Innovative Models

Comment: Many commenters recommended that the final Race to the Top priorities and requirements include flexibility for States to meet the State Reform Conditions in proposed criterion (D)(2) (new criterion (F)(2)) by describing other innovative school and governance reforms outside the charter school model that they have implemented in recent years. Several commenters provided examples of such non-charter models of innovation and reform, including magnet schools, schools within schools, and academies, and one commenter suggested simply substituting ''model innovative schools'' for ''charter schools'' in the criterion. One commenter recommended that the final notice permit States and LEAs to propose their own innovative school intervention models and strategies, supported by ''theoretical and research-based justification'' and an evaluation plan. Finally, one commenter urged a greater emphasis on LEAs, rather than individual schools, as the ''unit of change'' in turnaround efforts.

Discussion: The Department agrees that States applying for a Race to the Top grant should receive credit for enabling LEAs to operate innovative, autonomous public schools other than charter schools. Accordingly, we have added new criterion (F)(2)(v) and a related definition of *innovative, autonomous public schools.* This change also recognizes the important role of LEAs as incubators of new approaches to turning around low-achieving schools. In addition, two other criteria in section (F) provide an opportunity for States to explain how they have (a) created conditions favorable to education reform or innovation not described under other State Reform Conditions Criteria that have improved student outcomes, or (b) have plans or are implementing plans for significant reforms not described under other State Reform Plan Criteria that are expected to contribute to improving important student outcomes.

Changes: New criterion (F)(2)(v) gives a State credit for the extent to which it ''enables LEAs to operate innovative, autonomous public schools other than charter schools.'' Criterion (F)(3) (proposed criterion (E)(1)(iii), Demonstrating Other Significant Reform Conditions, will measure the extent to which a State, in addition to information provided under other State Reform Conditions Criteria, has created through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

Charter School Demographics

Comment: Several commenters claimed that charter schools do not serve as many high-need students as traditional public schools. In particular, some commenters stated that charter schools enroll few students with disabilities or English language learners and recommended that charter schools be required to accept and serve all students. Another commenter proposed language specifically requiring charter school laws to ensure equitable access for poor and minority students, students with disabilities, and English language learners. One commenter asserted that charter schools in one State ''are selectively resegregating schools based on language, special education, and poverty status and thus undercutting the equity and access guaranteed by civil rights and school adequacy legislation.'' In response to similar concerns, another commenter proposed that the final notice require charter school applications to include specific plans for educating students with disabilities, while another recommended a requirement for charter schools to ''take affirmative constitutional steps to become racially and economically integrated.'' Two commenters called for a new criterion within (F)(2) that would

measure the extent to which a State collects data on the student populations served by its charter schools, including students with disabilities, English language learners, and students from low-income families, as well as the extent to which the student populations overall in charter schools are comparable to those in non-charter schools.

Discussion: We agree that charter schools should be encouraged to serve student populations that are similar to local district student populations, especially relative to high-need students, and we are revising criterion (F)(2)(ii) to reflect this. We also note that, at least at the national level, the available data suggest that charter schools do serve as many high-need students as regular public schools. For example, the latest data from the Department's Schools and Staffing Survey show that in the 2007–2008 school year, 35.6 percent of charter school students received Title I services, compared to 29.1 percent of students in traditional public schools; the percentage of students with Individualized Education Programs in charter schools and traditional public schools was about the same at roughly 12 percent; and the percentage of English language learners served by charter schools exceeded the percentage of such students served by traditional public schools, 16.5 percent to 11.2 percent. Regarding the suggestion for further data collections, we note that the latter data, at least for established charter schools, are readily available through the Common Core of Data collected and maintained by the Department's National Center for Education Statistics.

Changes: Criterion (F)(2)(ii) now specifies that authorizers should find ways to ''encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students.''

Re-Engaging High School Dropouts

Comment: Three commenters recommended that the final notice include in (F)(2) a criterion focused on the extent to which a State encourages the development of charter schools that re-enroll high school dropouts, including the extent to which the State supports the provision of credit to such students based on performance rather than instructional time, efforts to promote on-time graduation, and early access to college coursework.

Discussion: The Department agrees that the Race to the Top criteria should encourage the development and implementation of strategies to re-engage students at risk of dropping out of high school and to re-enroll students who already have left school. However, we believe that such strategies would have the greatest impact as part of the Race to the Top competition if they are incorporated into school intervention models rather than limited to new charter schools. For example, as described in the responses to comments under section (E), Turning Around the Lowest-Achieving Schools, the transformation model adopted from the School Improvement Grants program includes several activities aimed at re-engaging high school dropouts, such as credit-recovery programs, re-engagement strategies, and performance-based assessments. In addition, the transformation model may include opportunities to enroll in advanced coursework, early-college high schools, and dual-enrollment programs.

Changes: None.

Non-LEA Charter Schools

Comment: One commenter expressed concern that non-LEA charter schools could be excluded from Race to the Top activities if their LEAs choose not to participate in the program. This commenter recommended that a State's Race to the Top application should include the participation and endorsement of its public charter schools regardless of their status as LEAs, and that non-LEA charter schools should be eligible for participation in Race to the Top activities and funding even if their LEA declines to participate.

Discussion: The Department understands the commenter's concern that the structural limitations of non-LEA charter schools may affect their ability to participate in the Race to the Top program if their LEAs elect not to participate in the program. To help provide a voice for these charter schools, criterion (A)(2)(ii)(b) adds State charter school membership associations to the list of stakeholders from which States are encouraged to obtain statements or actions of support in order to demonstrate statewide support for their Race to the Top plans. Also, States have discretion to use their share of Race to the Top grant funds (*i.e.,* the 50 percent of a State's award that is not allocated to participating LEAs according to relative shares of ESEA Title I, Part A formula allocations) to support Race to the Top activities in non-LEA charter schools, as well as any other public schools in participating and non-participating LEAs.

Changes: We have added State charter school membership organizations to the list of stakeholders in criterion (A)(2)(ii)(b) from which States can obtain statements or actions of support in order to demonstrate statewide support for their Race to the Top plans.

Charter Schools and Teacher Shortages

Comment: One commenter recommended that the final notice include provisions designed to help traditional public schools in areas with persistent teacher shortages to replace staff lost to area charter schools.

Discussion: The Department acknowledges that charter schools compete with existing regular public schools for students, teachers, staff, and other resources in the communities in which they operate. We also recognize that such resources may be in short supply in smaller communities and towns, particularly in isolated rural areas. However, dynamic charter schools can also attract new teachers and principals to the community or even the profession, and so we should not assume that any charter school gain is a loss for traditional public schools.

Changes: None.

Collective Bargaining

Comment: One commenter recommended the addition of language in criterion (F)(2) on the extent to which a State can show that it has not imposed barriers to the unionization of charter school employees.

Discussion: Criterion (F)(2) was intended to help assess, for the purpose of determining Race to the Top awards, the extent to which a State has removed barriers to the creation and expansion of high-performing charter schools. Because the Department believes that many high-performing charter schools have non-unionized employees, it does not believe that a State law or regulation that prohibits the unionization of charter school employees constitutes a barrier to the creation and expansion of high-performing charter schools. Accordingly, the Department declines to address this issue in this final notice.

Changes: None.

IV. Definitions

Proposed New Definitions

Comment: Commenters recommended adding a number of definitions for this program, including definitions for applied learning opportunities, college and career ready standards, chronic absenteeism, community, community engagement, community partners, comprehensive learning supports, conditions for learning, enrichment, family engagement, open educational resources, response to intervention, schools as the center of community,

stakeholder, student, student mobility, teacher, and universal design, as well as other specific terms related to Race to the Top requirements and criteria.

Discussion: As we discuss in other sections of this notice, we have added a number of definitions in response to comments, but we are not adding definitions for the terms suggested by these commenters. In some cases, we thought that defining some of the terms mentioned by the commenters could hinder the kind of innovation and fresh thinking that Race to the Top is intended to encourage and we did not wish to constrain the activities that might be promoted or supported by the Race to the Top program. In other cases, particularly where there is uncertainty or conflicting views on the meaning of terms, we were reluctant to make any decisions absent a more thorough consideration of the issues involved than has been provided through the public comment process on the Race to the Top program. The forthcoming reauthorization of the ESEA, for example, would be a more appropriate vehicle for defining many of the proposed terms that could have broad implications for a range of Federal education programs. Finally, in some cases, adding a definition was not essential for successful administration of the Race to the Top program.

Changes: None.

Final Definitions

Alternative routes to certification: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

College enrollment: This is a definition that has been added in response to comments. See Section A, State Success Factors, for the discussion.

Common set of K–12 standards: See Section B, Standards and Assessments, for the discussion of comments related to this definition.

Effective principal: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

Effective teacher: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

Formative Assessment

Comment: Commenters recommended several changes to the proposed definition of *formative assessment.* One commenter noted that formative assessments use a variety of strategies to provide timely feedback to teachers and students, but that not all formative assessments necessarily provide the ''instant'' feedback that is included in the proposed definition. Commenters suggested revising the definition to avoid excluding appropriate classroom practices that function as formative assessments. Other commenters recommended that the definition be changed to require that formative assessments adhere to the principles of universal design to ensure accessibility for all students; be designed to address a specific set of academic standards; and be integrated in comprehensive improvement plans. Other commenters recommended that the definition state that formative assessments may be developed by a test vendor or an LEA.

Discussion: The Department agrees with the commenter that ''instant'' feedback is not the goal of formative assessments; rather the goal is to provide feedback in a timely enough fashion for the information to be used to adjust instruction and to improve learning. Accordingly, we are changing ''instant feedback'' to ''timely feedback.'' We also agree that the definition of formative assessment should be appropriately broad and flexible to accommodate a variety of classroom practices; we are therefore changing the definition to refer to ''assessment questions, tools, and processes,'' rather than just ''processes.'' We decline to change the definition in the manner recommended by the other commenters because doing so would unnecessarily narrow the definition of a *formative assessment.*

Changes: We have changed the phrase ''formative assessment means an assessment process'' to ''formative assessment means assessment questions, tools, and processes.'' We also have changed the phrase ''to provide instant feedback on student understanding and to adjust ongoing teaching and learning accordingly'' to ''provide timely feedback for purposes of adjusting instruction to improve learning.''

Graduation Rate

Comment: Some commenters supported the proposed definition of *graduation rate,* noting that it is the same definition published by the Department in the Title I regulations the Department issued in October 2008. However, others suggested changes to the definition. One commenter called for the definition to include dropouts who re-enroll in high school and take longer than four years to graduate. Another commenter asked whether students who graduate from high school in five or six years would be included and urged the Department to give incentives to LEAs that re-enroll dropouts. Another commenter said the definition should take into account that students with disabilities served under the IDEA may remain in school until age 21. Finally, one commenter recommended including GED recipients in the definition, as well as students who need more than four years to graduate from high school, such as English language learners and other ''high risk'' students.

Discussion: The commenters are correct in noting that the *graduation rate* definition in the NPP was based on the definition in 34 CFR 200.19(b)(1), which was published as a final rule on October 29, 2008. In the NPP and this notice, graduation rate is defined as the four-year or extended-year adjusted cohort graduation rate. An extended-year adjusted cohort rate includes students who take more than four years to graduate and would include students who drop out of school and re-enroll, English language learners, students with disabilities, and other students who need more than four years to graduate with a regular high school diploma. We realize that the definition of *graduation rate* in the NPP could have been stated more clearly and we are, therefore, simplifying the definition in this notice to mean ''the four-year or extended-year adjusted cohort graduation rate as defined by 34 CFR 200.19(b)(1).'' Note, however, that the definition does not include GED recipients because a GED is not a regular high school diploma. Alternative credentials such as the GED are not aligned with a State's academic content standards and, if included in the definition of *graduation rate,* would provide a misleading account of the percentage of students who graduate with a diploma that reflects what a State determines all students should know and be able to do by the end of the 12th grade.

Changes: We have changed the language in the definition of *graduation rate* to clarify that *graduation rate* means ''the four-year or extended-year adjusted cohort graduation rate as defined by 34 CFR 200.19(b)(1).''

Highly effective principal: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

Highly effective teacher: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

High-minority school: This is a definition that has been added in response to comments. See Section D, Great Teachers and Leaders, for the discussion.

High-Need LEA

Comment: A few commenters noted that the definition of *high-need LEA* in

the NPP was inconsistent with the definition in section 14013 of the ARRA.

Discussion: We acknowledge this error and are replacing the proposed definition of *high-need LEA* with the definition in section 14013 of the ARRA.

Changes: We have replaced the proposed definition of high-need LEA with the following definition from section 14013 of the ARRA: ''an LEA (a) that serves not fewer than 10,000 children from families with incomes below the poverty line; or (b) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line.''

High-Need Students

Comment: Several commenters requested that the final notice include a definition of *high-need students.* A few commenters recommended that the definition of *high-need students* include students who have left school prematurely and students who are over age and under credited for on-time graduation. Another commenter recommended the definition include students who drop out of school and later re-enroll in school. A few commenters focused on the needs of struggling students who are off-track to graduate and at risk of dropping out, including students that need to balance school and work.

Discussion: We agree that we should define *high-need students* and are including in the definition references to students who are far below grade level, students who left school before receiving a regular high school diploma, and students at risk of not graduating with a diploma on time, among others.

Changes: We have added the following in the Definition section of the final notice: ''*High-need students* means students at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English language learners.''

High-performing charter school: This is a definition that has been added in response to comments. See Section F, General, for the discussion.

High-poverty school: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

High-quality assessment: See Section B, Standards and Assessments, for the discussion of comments related to this definition.

Increased learning time: This is a definition that has been added in response to comments. See Section E, Turning Around the Lowest-Achieving Schools, for the discussion.

Innovative, autonomous public schools: This is a definition that has been added in response to comments. See Section F, General, for the discussion.

Instructional improvement systems: See Section C, Data Systems to Support Instruction, for the discussion of comments related to this definition.

Interim Assessment

Comment: A few commenters suggested that the definition of *interim assessment* be amended to include the use of universal design principles.

Discussion: Because interim assessments are often created by teachers for their own use in the classroom, the Department believes that requiring that interim assessments use universal design principles would place too onerous a burden on teachers, who may not have the expertise to create assessments using universal design principles. However, the Department is in no way discouraging the use of universal design principles in interim or any other assessments.

Changes: None.

Involved LEAs: This is a definition that has been added in response to comments. See Section A, State Success Factors, for the discussion.

Low-minority school: This is a definition that has been added in response to comments. See Section D, Great Teachers and Leaders, for the discussion.

Low-poverty school: This is a definition that has been added in response to comments. See Section D, Great Teachers and Leaders, for the discussion.

Participating LEAs: This is a definition that has been added in response to comments. See Section A, State Success Factors, for the discussion.

Persistently lowest-achieving schools: See Section E, Turning Around the Lowest-Achieving Schools, for the discussion of comments related to this definition.

Rapid-Time

Comments: Commenters recommended that we reconsider or remove the statement in the definition of *rapid-time* that assessment data should be returned in 72 hours, citing the fact that current statewide longitudinal data systems do not allow for data to be processed this quickly. Commenters noted that the scoring processes for different types of items that could be included in formative, summative, and interim assessments and the means by which the assessment is administered (*e.g.,* online or on paper) could affect the timeline for returning data. One commenter suggested that States be allowed to create their own definitions of *rapid-time* and that the Department evaluate these definitions during its review of Race to the Top applications. Another commenter recommended defining *rapid-time* based on whether or not the data could be used to inform current instruction.

Discussion: The Department agrees with commenters that specifying the amount of time for returning assessment data should be removed from the definition of *rapid time.* We also are clarifying the definition of *rapid-time* by including a specific reference to locally-collected assessment data, as *rapid-time* data are specifically used to inform classroom-level decisions and thus consist primarily of data that are collected locally. Removing the concept that assessment data should be returned within 72 hours and clarifying that rapid time refers to locally-collected data address commenters' concerns regarding the potential negative impact the proposed definition could have had on the types of assessments and item types used on these assessments.

Changes: The Department has revised the definition of rapid-time to read as follows: ''*Rapid-time,* in reference to reporting and availability of locally-collected school- and LEA-level data, means that data are available quickly enough to inform current lessons, instruction, and related supports.''

Student Achievement

Comment: The Department received a very large number of comments on the proposed definition of *student achievement,* which used, as a basis, a student's scores on State assessments in reading/language arts, mathematics, and science required by section 1111(b)(3) of the ESEA. A majority of these comments focused on the language in the NPP regarding the definition of student achievement for non-tested grades and subjects, which referred to alternative measures of student performance such as student performance on interim assessments and the percentage of students enrolled in Advanced Placement courses who take Advanced Placement exams. These commenters suggested that such alternative measures also should include statewide

assessments whenever possible, the use of college or career-readiness tests, performance-based assessments, portfolio assessments, course completion rates, and career and technical education measures. Also, many commenters opposed the use of IEP goals as an example of an alternative student achievement measure. Other commenters recommended supplementing scores on ESEA assessments with multiple, alternative measures of student performance for all students, including specific suggestions such as attendance, on-time promotion rates, college enrollment and completion rates, and other State-proposed indicators.

Discussion: In reviewing these comments, it became clear that there were several components of the definition of *student achievement* that were unnecessarily confusing. First, the use of the phrase ''at a minimum,'' which we believed, for tested grades and subjects, provided States with the flexibility to supplement ESEA assessment results with a wide range of other measures of student achievement and performance, confused some commenters. To avoid further confusion we are revising the definition to remove the phrase ''at a minimum,'' and adding, for tested grades and subjects, the phrase, ''other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.'' As for alternative measures in non-tested grades, we note that the alternatives included in the proposed definition of *student achievement* were examples only; however, we agree with the many commenters who reminded us that IEPs are individualized and that IEP goals often include student needs that are not based on academic content. For these reasons, it is not appropriate to evaluate student achievement based on IEP goals, and we are removing IEPs from the list of possible alternative measures. We also are modifying the other examples of potential alternative measures of student performance for non-tested grades and subjects. Again, we note that these alternative measures are examples only, and States, LEAs, and schools have great latitude to use their own rigorous alternative measures of student achievement and performance in implementing their Race to the Top plans.

Changes: The definition of *student achievement* has been revised to read as follows: *Student achievement* means—

(a) For tested grades and subjects: (1) a student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.

(b) For non-tested grades and subjects: alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student growth: See Section D, Great Teachers and Leaders, for the discussion of comments related to this definition.

Total Revenues available to the State: See Section F, General, for the discussion of comments related to this definition.

America COMPETES Act elements: See Section C, Data Systems to Support Instruction, for the discussion of comments related to this definition.

Final Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The Secretary establishes the following priorities for this competition:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under 34 CFR 75.105(c)(2)(i), we give competitive preference to an application by awarding additional points to applications that meet this priority or selecting an application that meets the priority over an application of comparable merit that does not meet the priority.

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Priorities

Priority 1: Absolute Priority—Comprehensive Approach to Education Reform

To meet this priority, the State's application must comprehensively and coherently address all of the four education reform areas specified in the ARRA as well as the State Success Factors Criteria in order to demonstrate that the State and its participating LEAs are taking a systemic approach to education reform. The State must demonstrate in its application sufficient LEA participation and commitment to successfully implement and achieve the goals in its plans; and it must describe how the State, in collaboration with its participating LEAs, will use Race to the Top and other funds to increase student achievement, decrease the achievement gaps across student subgroups, and increase the rates at which students graduate from high school prepared for college and careers.

Priority 2: Competitive Preference Priority—Emphasis on Science, Technology, Engineering, and Mathematics (STEM)

To meet this priority, the State's application must have a high-quality plan to address the need to (i) offer a rigorous course of study in mathematics, the sciences, technology, and engineering; (ii) cooperate with industry experts, museums, universities, research centers, or other STEM-capable community partners to prepare and assist teachers in integrating STEM content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities for students; and (iii) prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering, and mathematics.

Priority 3: Invitational Priority—Innovations for Improving Early Learning Outcomes

The Secretary is particularly interested in applications that include practices, strategies, or programs to improve educational outcomes for high-need students who are young children (pre-kindergarten through third grade) by enhancing the quality of preschool programs. Of particular interest are proposals that support practices that (i) improve school readiness (including social, emotional, and cognitive); and (ii) improve the transition between preschool and kindergarten.

Priority 4: Invitational Priority—Expansion and Adaptation of Statewide Longitudinal Data Systems

The Secretary is particularly interested in applications in which the State plans to expand statewide longitudinal data systems to include or integrate data from special education programs, English language learner

programs,[10] early childhood programs, at-risk and dropout prevention programs, and school climate and culture programs, as well as information on student mobility, human resources (*i.e.,* information on teachers, principals, and other staff), school finance, student health, postsecondary education, and other relevant areas, with the purpose of connecting and coordinating all parts of the system to allow important questions related to policy, practice, or overall effectiveness to be asked, answered, and incorporated into effective continuous improvement practices.

The Secretary is also particularly interested in applications in which States propose working together to adapt one State's statewide longitudinal data system so that it may be used, in whole or in part, by one or more other States, rather than having each State build or continue building such systems independently.

Priority 5: Invitational Priority—P–20 Coordination, Vertical and Horizontal Alignment

The Secretary is particularly interested in applications in which the State plans to address how early childhood programs, K–12 schools, postsecondary institutions, workforce development organizations, and other State agencies and community partners (*e.g.,* child welfare, juvenile justice, and criminal justice agencies) will coordinate to improve all parts of the education system and create a more seamless preschool-through-graduate school (P–20) route for students. Vertical alignment across P–20 is particularly critical at each point where a transition occurs (*e.g.,* between early childhood and K–12, or between K–12 and postsecondary/careers) to ensure that students exiting one level are prepared for success, without remediation, in the next. Horizontal alignment, that is, coordination of services across schools, State agencies, and community partners, is also important in ensuring that high-need students (as defined in this notice) have access to the broad array of opportunities and services they need and that are beyond the capacity of a school itself to provide.

Priority 6: Invitational Priority—School-Level Conditions for Reform, Innovation, and Learning

The Secretary is particularly interested in applications in which the State's participating LEAs (as defined in this notice) seek to create the conditions for reform and innovation as well as the conditions for learning by providing schools with flexibility and autonomy in such areas as—

(i) Selecting staff;

(ii) Implementing new structures and formats for the school day or year that result in increased learning time (as defined in this notice);

(iii) Controlling the school's budget;

(iv) Awarding credit to students based on student performance instead of instructional time;

(v) Providing comprehensive services to high-need students (as defined in this notice) (*e.g.,* by mentors and other caring adults; through local partnerships with community-based organizations, nonprofit organizations, and other providers);

(vi) Creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement; and

(vii) Implementing strategies to effectively engage families and communities in supporting the academic success of their students.

Final Requirements

The Secretary establishes the following requirements for this program.

Eligibility Requirements

A State must meet the following requirements in order to be eligible to receive funds under this program.

(a) The State's applications for funding under Phase 1 and Phase 2 of the State Fiscal Stabilization Fund program must be approved by the Department prior to the State being awarded a Race to the Top grant.

(b) At the time the State submits its application, there must not be any legal, statutory, or regulatory barriers at the State level to linking data on student achievement (as defined in this notice) or student growth (as defined in this notice) to teachers and principals for the purpose of teacher and principal evaluation.

Application Requirements

(a) The State's application must be signed by the Governor, the State's chief school officer, and the president of the State board of education (if applicable). States will respond to this requirement in the application, Section III, Race to the Top Application Assurances. In addition, the assurances in Section IV must be signed by the Governor.

(b) The State must describe the progress it has made over the past several years in each of the four education reform areas (as described in criterion (A)(3)(i)).

(c) The State must include a budget that details how it will use grant funds and other resources to meet targets and perform related functions (as described in criterion (A)(2)(i)(d)), including how it will use funds awarded under this program to—

(1) Achieve its targets for improving student achievement and graduation rates and for closing achievement gaps (as described in criterion (A)(1)(iii)); the State must also describe its track record of improving student progress overall and by student subgroup (as described in criterion (A)(3)(ii)); and

(2) Give priority to high-need LEAs (as defined in this notice), in addition to providing 50 percent of the grant to participating LEAs (as defined in this notice) based on their relative shares of funding under Part A of Title I of the ESEA for the most recent year as required under section 14006(c) of the ARRA. (**Note:** Because all Race to the Top grants will be made in 2010, relative shares will be based on total funding received in FY 2009, including both the regular Title I, Part A appropriation and the amount made available by the ARRA).

(d) The State must provide, for each State Reform Conditions Criterion (listed in this notice) that it chooses to address, a description of the State's current status in meeting that criterion and, at a minimum, the information requested as supporting evidence for the criterion and the performance measures, if any (see Appendix A).

(e) The State must provide, for each Reform Plan Criterion (listed in this notice) that it chooses to address, a detailed plan for use of grant funds that includes, but need not be limited to—

(1) The key goals;

(2) The key activities to be undertaken and rationale for the activities, which should include why the specific activities are thought to bring about the change envisioned and how these activities are linked to the key goals;

(3) The timeline for implementing the activities;

(4) The party or parties responsible for implementing the activities;

(5) The information requested in the performance measures, where applicable (see Appendix A), and where the State proposes plans for reform efforts not covered by a specified performance measure, the State is encouraged to propose performance measures and annual targets for those efforts; and

(6) The information requested as supporting evidence, if any, for the criterion, together with any additional information the State believes will be

[10] The term English language learner, as used in this notice, is synonymous with the term limited English proficient, as defined in section 9101 of the ESEA.

helpful to peer reviewers in judging the credibility of the State's plan.

(f) The State must submit a certification from the State Attorney General that—

(1) The State's description of, and statements and conclusions concerning State law, statute, and regulation in its application are complete, accurate, and constitute a reasonable interpretation of State law, statute, and regulation; and

(2) At the time the State submits its application, the State does not have any legal, statutory, or regulatory barriers at the State level to linking data on student achievement or student growth to teachers and principals for the purpose of teacher and principal evaluation.

(g) When addressing issues relating to assessments required under the ESEA or subgroups in the selection criteria, the State must meet the following requirements:

(1) For student subgroups with respect to the NAEP, the State must provide data for the NAEP subgroups described in section 303(b)(2)(G) of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9622) (*i.e.*, race, ethnicity, socioeconomic status, gender, disability, and limited English proficiency). The State must also include the NAEP exclusion rate for students with disabilities and the exclusion rate for English language learners, along with clear documentation of the State's policies and practices for determining whether a student with a disability or an English language learner should participate in the NAEP and whether the student needs accommodations;

(2) For student subgroups with respect to high school graduation rates, college enrollment and credit accumulation rates, and the assessments required under the ESEA, the State must provide data for the subgroups described in section 1111(b)(2)(C)(v)(II) of the ESEA (*i.e.*, economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency); and

(3) When asked to provide information regarding the assessments required under the ESEA, States should refer to section 1111(b)(3) of the ESEA; in addition, when describing this assessment data in the State's application, the State should note any factors (*e.g.*, changes in cut scores) that would impact the comparability of data from one year to the next.

Reporting Requirements

A State receiving Race to the Top funds must submit to the Department an annual report which must include, in addition to the standard elements, a description of the State's and its LEAs' progress to date on their goals, timelines, and budgets, as well as actual performance compared to the annual targets the State established in its application with respect to each performance measure. Further, a State receiving funds under this program and its participating LEAs are accountable for meeting the goals, timelines, budget, and annual targets established in the application; adhering to an annual fund drawdown schedule that is tied to meeting these goals, timelines, budget, and annual targets; and fulfilling and maintaining all other conditions for the conduct of the project. The Department will monitor a State's and its participating LEAs' progress in meeting the State's goals, timelines, budget, and annual targets and in fulfilling other applicable requirements. In addition, the Department may collect additional data as part of a State's annual reporting requirements.

To support a collaborative process between the State and the Department, the Department may require that applicants who are selected to receive an award enter into a written performance or cooperative agreement with the Department. If the Department determines that a State is not meeting its goals, timelines, budget, or annual targets or is not fulfilling other applicable requirements, the Department will take appropriate action, which could include a collaborative process between the Department and the State, or enforcement measures with respect to this grant, such as placing the State in high-risk status, putting the State on reimbursement payment status, or delaying or withholding funds.

A State that receives Race to the Top funds must also meet the reporting requirements that apply to all ARRA-funded programs. Specifically, the State must submit reports, within 10 days after the end of each calendar quarter, that contain the information required under section 1512(c) of the ARRA in accordance with any guidance issued by the Office of Management and Budget or the Department (ARRA Division A, Section 1512(c)).

In addition, for each year of the program, the State will submit a report to the Secretary, at such time and in such manner as the Secretary may require, that describes:

○ The uses of funds within the State;

○ how the State distributed the funds it received;

○ the number of jobs that the Governor estimates were saved or created with the funds;

○ the State's progress in reducing inequities in the distribution of highly qualified teachers, implementing a State longitudinal data system, and developing and implementing valid and reliable assessments for English language learners and students with disabilities; and

○ if applicable, a description of each modernization, renovation, or repair project approved in the State application and funded, including the amounts awarded and project costs (ARRA Division A, Section 14008).

Program Requirements

Evaluation: The Institute of Education Sciences (IES) will conduct a series of national evaluations of Race to the Top's State grantees as part of its evaluation of programs funded under the ARRA. The Department's goal for these evaluations is to ensure that its studies not only assess program impacts, but also provide valuable information to State and local educators to help inform and improve their practices.

The Department anticipates that the national evaluations will involve such components as—

- Surveys of States, LEAs, and/or schools, which will help identify how program funding is spent and the specific efforts and activities that are underway within each of the four education reform areas and across selected ARRA-funded programs;
- Case studies of promising practices in States, LEAs, and/or schools through surveys and other mechanisms; and
- Evaluations of outcomes, focusing on student achievement and other performance measures, to determine the impact of the reforms implemented under Race to the Top.

Race to the Top grantee States are not required to conduct independent evaluations, but may propose, within their applications, to use funds from Race to the Top to support such evaluations. Grantees must make available, through formal (*e.g.*, peer-reviewed journals) or informal (*e.g.*, newsletters, Web sites) mechanisms, the results of any evaluations they conduct of their funded activities. In addition, as described elsewhere in this notice and regardless of the final components of the national evaluation, Race to the Top States, LEAs, and schools are expected to identify and share promising practices, make work available within and across States, and make data available in appropriate ways to stakeholders and researchers so as to help all States focus on continuous improvement in service of student outcomes.

Participating LEA Scope of Work: The agreements signed by participating LEAs (as defined in this notice) must include a scope-of-work section. The scope of work submitted by LEAs and States as part of their Race to the Top applications will be preliminary. Preliminary scopes of work should include the portions of the State's proposed reform plans that the LEA is agreeing to implement. If a State is awarded a Race to the Top grant, its participating LEAs (as defined in this notice) will have up to 90 days to complete final scopes of work, which must contain detailed work plans that are consistent with their preliminary scopes of work and with the State's grant application, and should include the participating LEAs' specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures.

Making Work Available: Unless otherwise protected by law or agreement as proprietary information, the State and its subgrantees must make any work (*e.g.*, materials, tools, processes, systems) developed under its grant freely available to others, including but not limited to by posting the work on a Web site identified or sponsored by the Department.

Technical Assistance: The State must participate in applicable technical assistance activities that may be conducted by the Department or its designees.

State Summative Assessments: No funds awarded under this competition may be used to pay for costs related to statewide summative assessments.

Final Selection Criteria

The Secretary establishes the following criteria for reviewing applications submitted under this program. In the Scoring Rubric, in Appendix B, the Secretary establishes the maximum number of points assigned to each criterion.

A. State Success Factors

(A)(1) *Articulating State's education reform agenda and LEAs' participation in it:* The extent to which—

(i) The State has set forth a comprehensive and coherent reform agenda that clearly articulates its goals for implementing reforms in the four education areas described in the ARRA and improving student outcomes statewide, establishes a clear and credible path to achieving these goals, and is consistent with the specific reform plans that the State has proposed throughout its application;

(ii) The participating LEAs (as defined in this notice) are strongly committed to the State's plans and to effective implementation of reform in the four education areas, as evidenced by Memoranda of Understanding (MOUs) (as set forth in Appendix D) [11] or other binding agreements between the State and its participating LEAs (as defined in this notice) that include—

(a) Terms and conditions that reflect strong commitment by the participating LEAs (as defined in this notice) to the State's plans;

(b) Scope-of-work descriptions that require participating LEAs (as defined in this notice) to implement all or significant portions of the State's Race to the Top plans; and

(c) Signatures from as many as possible of the LEA superintendent (or equivalent), the president of the local school board (or equivalent, if applicable), and the local teachers' union leader (if applicable) (one signature of which must be from an authorized LEA representative) demonstrating the extent of leadership support within participating LEAs (as defined in this notice); and

(iii) The LEAs that are participating in the State's Race to the Top plans (including considerations of the numbers and percentages of participating LEAs, schools, K–12 students, and students in poverty) will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for—

(a) Increasing student achievement in (at a minimum) reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;

(c) Increasing high school graduation rates (as defined in this notice); and

(d) Increasing college enrollment (as defined in this notice) and increasing the number of students who complete at least a year's worth of college credit that is applicable to a degree within two years of enrollment in an institution of higher education.

(A)(2) *Building strong statewide capacity to implement, scale up, and sustain proposed plans:* The extent to which the State has a high-quality overall plan to—

(i) Ensure that it has the capacity required to implement its proposed plans by—

(a) Providing strong leadership and dedicated teams to implement the statewide education reform plans the State has proposed;

(b) Supporting participating LEAs (as defined in this notice) in successfully implementing the education reform plans the State has proposed, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs (as defined in this notice) accountable for progress and performance, and intervening where necessary;

(c) Providing effective and efficient operations and processes for implementing its Race to the Top grant in such areas as grant administration and oversight, budget reporting and monitoring, performance measure tracking and reporting, and fund disbursement;

(d) Using the funds for this grant, as described in the State's budget and accompanying budget narrative, to accomplish the State's plans and meet its targets, including, where feasible, by coordinating, reallocating, or repurposing education funds from other Federal, State, and local sources so that they align with the State's Race to the Top goals; and

(e) Using the fiscal, political, and human capital resources of the State to continue, after the period of funding has ended, those reforms funded under the grant for which there is evidence of success; and

(ii) Use support from a broad group of stakeholders to better implement its plans, as evidenced by the strength of statements or actions of support from—

(a) The State's teachers and principals, which include the State's teachers' unions or statewide teacher associations; and

(b) Other critical stakeholders, such as the State's legislative leadership; charter school authorizers and State charter school membership associations (if applicable); other State and local leaders (*e.g.*, business, community, civil rights, and education association leaders); Tribal schools; parent, student, and community organizations (*e.g.*, parent-teacher associations, nonprofit organizations, local education foundations, and community-based organizations); and institutions of higher education.

(A)(3) *Demonstrating significant progress in raising achievement and closing gaps:* The extent to which the State has demonstrated its ability to—

(i) Make progress over the past several years in each of the four education reform areas, and used its ARRA and

[11] See Appendix D for more on participating LEA MOUs and for a model MOU.

other Federal and State funding to pursue such reforms;

(ii) Improve student outcomes overall and by student subgroup since at least 2003, and explain the connections between the data and the actions that have contributed to—

(a) Increasing student achievement in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; and

(c) Increasing high school graduation rates.

B. Standards and Assessments

State Reform Conditions Criteria

(B)(1) *Developing and adopting common standards:* The extent to which the State has demonstrated its commitment to adopting a common set of high-quality standards, evidenced by (as set forth in Appendix B)—

(i) The State's participation in a consortium of States that—

(a) Is working toward jointly developing and adopting a common set of K–12 standards (as defined in this notice) that are supported by evidence that they are internationally benchmarked and build toward college and career readiness by the time of high school graduation; and

(b) Includes a significant number of States; and

(ii)(a) For Phase 1 applications, the State's high-quality plan demonstrating its commitment to and progress toward adopting a common set of K–12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State, and to implementing the standards thereafter in a well-planned way; or

(b) For Phase 2 applications, the State's adoption of a common set of K–12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State in a high-quality plan toward which the State has made significant progress, and its commitment to implementing the standards thereafter in a well-planned way.[12]

(B)(2) *Developing and implementing common, high-quality assessments:* The extent to which the State has demonstrated its commitment to improving the quality of its assessments, evidenced by (as set forth in Appendix B) the State's participation in a consortium of States that—

(i) Is working toward jointly developing and implementing common, high-quality assessments (as defined in this notice) aligned with the consortium's common set of K–12 standards (as defined in this notice); and

(ii) Includes a significant number of States.

Reform Plan Criteria

(B)(3) *Supporting the transition to enhanced standards and high-quality assessments:* The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for supporting a statewide transition to and implementation of internationally benchmarked K–12 standards that build toward college and career readiness by the time of high school graduation, and high-quality assessments (as defined in this notice) tied to these standards. State or LEA activities might, for example, include: developing a rollout plan for the standards together with all of their supporting components; in cooperation with the State's institutions of higher education, aligning high school exit criteria and college entrance requirements with the new standards and assessments; developing or acquiring, disseminating, and implementing high-quality instructional materials and assessments (including, for example, formative and interim assessments (both as defined in this notice)); developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments; and engaging in other strategies that translate the standards and information from assessments into classroom practice for all students, including high-need students (as defined in this notice).

C. Data Systems To Support Instruction

State Reform Conditions Criteria

(C)(1) *Fully implementing a statewide longitudinal data system:* The extent to which the State has a statewide longitudinal data system that includes all of the America COMPETES Act elements (as defined in this notice).

Reform Plan Criteria

(C)(2) *Accessing and using State data:* The extent to which the State has a high-quality plan to ensure that data from the State's statewide longitudinal data system are accessible to, and used to inform and engage, as appropriate, key stakeholders (*e.g.*, parents, students, teachers, principals, LEA leaders, community members, unions, researchers, and policymakers); and that the data support decision-makers in the continuous improvement of efforts in such areas as policy, instruction, operations, management, resource allocation, and overall effectiveness.[13]

(C)(3) *Using data to improve instruction:* The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan to—

(i) Increase the acquisition, adoption, and use of local instructional improvement systems (as defined in this notice) that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;

(ii) Support participating LEAs (as defined in this notice) and schools that are using instructional improvement systems (as defined in this notice) in providing effective professional development to teachers, principals, and administrators on how to use these systems and the resulting data to support continuous instructional improvement; and

(iii) Make the data from instructional improvement systems (as defined in this notice), together with statewide longitudinal data system data, available and accessible to researchers so that they have detailed information with which to evaluate the effectiveness of instructional materials, strategies, and approaches for educating different types of students (*e.g.*, students with disabilities, English language learners, students whose achievement is well below or above grade level).

D. Great Teachers and Leaders

State Reform Conditions Criteria

(D)(1) *Providing high-quality pathways for aspiring teachers and principals:* The extent to which the State has—

(i) Legal, statutory, or regulatory provisions that allow alternative routes to certification (as defined in this notice) for teachers and principals, particularly routes that allow for providers in addition to institutions of higher education;

(ii) Alternative routes to certification (as defined in this notice) that are in use; and

(iii) A process for monitoring, evaluating, and identifying areas of

[12] Phase 2 applicants addressing selection criterion (B)(1)(ii) may amend their June 1, 2010 application submission through August 2, 2010 by submitting evidence of adopting common standards after June 1, 2010.

[13] Successful applicants that receive Race to the Top grant awards will need to comply with the Family Educational Rights and Privacy Act (FERPA), including 34 CFR Part 99, as well as State and local requirements regarding privacy.

teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.

Reform Plan Criteria

(D)(2) *Improving teacher and principal effectiveness based on performance:* The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to ensure that participating LEAs (as defined in this notice)—

(i) Establish clear approaches to measuring student growth (as defined in this notice) and measure it for each individual student;

(ii) Design and implement rigorous, transparent, and fair evaluation systems for teachers and principals that (a) differentiate effectiveness using multiple rating categories that take into account data on student growth (as defined in this notice) as a significant factor, and (b) are designed and developed with teacher and principal involvement;

(iii) Conduct annual evaluations of teachers and principals that include timely and constructive feedback; as part of such evaluations, provide teachers and principals with data on student growth for their students, classes, and schools; and

(iv) Use these evaluations, at a minimum, to inform decisions regarding—

(a) Developing teachers and principals, including by providing relevant coaching, induction support, and/or professional development;

(b) Compensating, promoting, and retaining teachers and principals, including by providing opportunities for highly effective teachers and principals (both as defined in this notice) to obtain additional compensation and be given additional responsibilities;

(c) Whether to grant tenure and/or full certification (where applicable) to teachers and principals using rigorous standards and streamlined, transparent, and fair procedures; and

(d) Removing ineffective tenured and untenured teachers and principals after they have had ample opportunities to improve, and ensuring that such decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

(D)(3) *Ensuring equitable distribution of effective teachers and principals:* The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to—

(i) Ensure the equitable distribution of teachers and principals by developing a plan, informed by reviews of prior actions and data, to ensure that students in high-poverty and/or high-minority schools (both as defined in this notice) have equitable access to highly effective teachers and principals (both as defined in this notice) and are not served by ineffective teachers and principals at higher rates than other students; and

(ii) Increase the number and percentage of effective teachers (as defined in this notice) teaching hard-to-staff subjects and specialty areas including mathematics, science, and special education; teaching in language instruction educational programs (as defined under Title III of the ESEA); and teaching in other areas as identified by the State or LEA.

Plans for (i) and (ii) may include, but are not limited to, the implementation of incentives and strategies in such areas as recruitment, compensation, teaching and learning environments, professional development, and human resources practices and processes.

(D)(4) *Improving the effectiveness of teacher and principal preparation programs:* The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Link student achievement and student growth (both as defined in this notice) data to the students' teachers and principals, to link this information to the in-State programs where those teachers and principals were prepared for credentialing, and to publicly report the data for each credentialing program in the State; and

(ii) Expand preparation and credentialing options and programs that are successful at producing effective teachers and principals (both as defined in this notice).

(D)(5) *Providing effective support to teachers and principals:* The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for its participating LEAs (as defined in this notice) to—

(i) Provide effective, data-informed professional development, coaching, induction, and common planning and collaboration time to teachers and principals that are, where appropriate, ongoing and job-embedded. Such support might focus on, for example, gathering, analyzing, and using data; designing instructional strategies for improvement; differentiating instruction; creating school environments supportive of data-informed decisions; designing instruction to meet the specific needs of high-need students (as defined in this notice); and aligning systems and removing barriers to effective implementation of practices designed to improve student learning outcomes; and

(ii) Measure, evaluate, and continuously improve the effectiveness of those supports in order to improve student achievement (as defined in this notice).

E. Turning Around the Lowest-Achieving Schools

State Reform Conditions Criteria

(E)(1) *Intervening in the lowest-achieving schools and LEAs:* The extent to which the State has the legal, statutory, or regulatory authority to intervene directly in the State's persistently lowest-achieving schools (as defined in this notice) and in LEAs that are in improvement or corrective action status.

Reform Plan Criteria

(E)(2) *Turning around the lowest-achieving schools:* The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Identify the persistently lowest-achieving schools (as defined in this notice) and, at its discretion, any non-Title I eligible secondary schools that would be considered persistently lowest-achieving schools (as defined in this notice) if they were eligible to receive Title I funds; and

(ii) Support its LEAs in turning around these schools by implementing one of the four school intervention models (as described in Appendix C): Turnaround model, restart model, school closure, or transformation model (provided that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools).

F. General

State Reform Conditions Criteria

(F)(1) *Making education funding a priority:* The extent to which—

(i) The percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2009 was greater than or equal to the percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2008; and

(ii) The State's policies lead to equitable funding (a) between high-need LEAs (as defined in this notice) and other LEAs, and (b) within LEAs,

between high-poverty schools (as defined in this notice) and other schools.

(F)(2) *Ensuring successful conditions for high-performing charter schools and other innovative schools:* The extent to which—

(i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;

(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;

(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;

(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and

(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

(F)(3) *Demonstrating other significant reform conditions:* The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

Final Definitions: The Secretary establishes the following definitions for Race to the Top program terms that are not defined in the ARRA (or, by reference, in the ESEA).

Alternative routes to certification means pathways to certification that are authorized under the State's laws or regulations, that allow the establishment and operation of teacher and administrator preparation programs in the State, and that have the following characteristics (in addition to standard features such as demonstration of subject-matter mastery, and high-quality instruction in pedagogy and in addressing the needs of all students in the classroom including English language learners and student with disabilities): (a) Can be provided by various types of qualified providers, including both institutions of higher education and other providers operating independently from institutions of higher education; (b) are selective in accepting candidates; (c) provide supervised, school-based experiences and ongoing support such as effective mentoring and coaching; (d) significantly limit the amount of coursework required or have options to test out of courses; and (e) upon completion, award the same level of certification that traditional preparation programs award upon completion.

College enrollment refers to the enrollment of students who graduate from high school consistent with 34 CFR 200.19(b)(1) and who enroll in an institution of higher education (as defined in section 101 of the Higher Education Act, Public Law 105–244, 20 U.S.C. 1001) within 16 months of graduation.

Common set of K–12 standards means a set of content standards that define what students must know and be able to do and that are substantially identical across all States in a consortium. A State may supplement the common standards with additional standards, provided that the additional standards do not exceed 15 percent of the State's total standards for that content area.

Effective principal means a principal whose students, overall and for each subgroup, achieve acceptable rates (*e.g.,* at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates and college enrollment rates, as well as evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement.

Effective teacher means a teacher whose students achieve acceptable rates (*e.g.,* at least one grade level in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance.

Formative assessment means assessment questions, tools, and processes that are embedded in instruction and are used by teachers and students to provide timely feedback for purposes of adjusting instruction to improve learning.

Graduation rate means the four-year or extended-year adjusted cohort graduation rate as defined by 34 CFR 200.19(b)(1).

Highly effective principal means a principal whose students, overall and for each subgroup, achieve high rates (*e.g.,* one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that principal effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (*e.g.,* one and one-half grade levels in an academic year) of student growth (as defined in this notice). States, LEAs, or schools must include multiple measures, provided that teacher effectiveness is evaluated, in significant part, by student growth (as defined in this notice). Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional learning communities) that increase the effectiveness of other teachers in the school or LEA.

High-minority school is defined by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.

High-need LEA means an LEA (a) that serves not fewer than 10,000 children from families with incomes below the poverty line; or (b) for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line.

High-need students means students at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English language learners.

High-performing charter school means a charter school that has been in operation for at least three consecutive years and has demonstrated overall success, including (a) substantial progress in improving student achievement (as defined in this notice); and (b) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

High-poverty school means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the highest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

High-quality assessment means an assessment designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats (*e.g.*, open-ended responses, performance-based tasks). Such assessments should enable measurement of student achievement (as defined in this notice) and student growth (as defined in this notice); be of high technical quality (*e.g.*, be valid, reliable, fair, and aligned to standards); incorporate technology where appropriate; include the assessment of students with disabilities and English language learners; and to the extent feasible, use universal design principles (as defined in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002) in development and administration.

Increased learning time means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects, including English; reading or language arts; mathematics; science; foreign languages; civics and government; economics; arts; history; and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.[14]

Innovative, autonomous public schools means open enrollment public schools that, in return for increased accountability for student achievement (as defined in this notice), have the flexibility and authority to define their instructional models and associated curriculum; select and replace staff; implement new structures and formats for the school day or year; and control their budgets.

Instructional improvement systems means technology-based tools and other strategies that provide teachers, principals, and administrators with meaningful support and actionable data to systemically manage continuous instructional improvement, including such activities as: Instructional planning; gathering information (*e.g.*, through formative assessments (as defined in this notice), interim assessments (as defined in this notice), summative assessments, and looking at student work and other student data); analyzing information with the support of rapid-time (as defined in this notice) reporting; using this information to inform decisions on appropriate next instructional steps; and evaluating the effectiveness of the actions taken. Such systems promote collaborative problem-solving and action planning; they may also integrate instructional data with student-level data such as attendance, discipline, grades, credit accumulation, and student survey results to provide early warning indicators of a student's risk of educational failure.

Interim assessment means an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate students' knowledge and skills relative to a specific set of academic standards, and produces results that can be aggregated (*e.g.*, by course, grade level, school, or LEA) in order to inform teachers and administrators at the student, classroom, school, and LEA levels.

Involved LEAs means LEAs that choose to work with the State to implement those specific portions of the State's plan that necessitate full or nearly-full statewide implementation, such as transitioning to a common set of K–12 standards (as defined in this notice). Involved LEAs do not receive a share of the 50 percent of a State's grant award that it must subgrant to LEAs in accordance with section 14006(c) of the ARRA, but States may provide other funding to involved LEAs under the State's Race to the Top grant in a manner that is consistent with the State's application.

Low-minority school is defined by the State in a manner consistent with its Teacher Equity Plan. The State should provide, in its Race to the Top application, the definition used.

Low-poverty school means, consistent with section 1111(h)(1)(C)(viii) of the ESEA, a school in the lowest quartile of schools in the State with respect to poverty level, using a measure of poverty determined by the State.

Participating LEAs means LEAs that choose to work with the State to implement all or significant portions of the State's Race to the Top plan, as specified in each LEA's agreement with the State. Each participating LEA that receives funding under Title I, Part A will receive a share of the 50 percent of a State's grant award that the State must subgrant to LEAs, based on the LEA's relative share of Title I, Part A allocations in the most recent year, in accordance with section 14006(c) of the ARRA. Any participating LEA that does not receive funding under Title I, Part A (as well as one that does) may receive funding from the State's other 50 percent of the grant award, in accordance with the State's plan.

Persistently lowest-achieving schools means, as determined by the State: (i) 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,

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

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 (ii) 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.

To identify the lowest-achieving schools, a State must take into account both (i) The academic achievement of the ''all students'' group in a school in terms of proficiency on the State's assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (ii) The school's lack of progress on those assessments over a number of years in the ''all students'' group.

Rapid-time, in reference to reporting and availability of locally-collected school- and LEA-level data, means that data are available quickly enough to inform current lessons, instruction, and related supports.

Student achievement means—

(a) For tested grades and subjects: (1) A student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. A State may also include other measures that are rigorous and comparable across classrooms.

Total revenues available to the State means either (a) projected or actual total State revenues for education and other purposes for the relevant year; or (b) projected or actual total State appropriations for education and other purposes for the relevant year.

America COMPETES Act elements means (as specified in section 6401(e)(2)(D) of that Act): (1) A unique statewide student identifier that does not permit a student to be individually identified by users of the system; (2) student-level enrollment, demographic, and program participation information; (3) student-level information about the points at which students exit, transfer in, transfer out, drop out, or complete P–16 education programs; (4) the capacity to communicate with higher education data systems; (5) a State data audit system assessing data quality, validity, and reliability; (6) yearly test records of individual students with respect to assessments under section 1111(b) of the ESEA (20 U.S.C. 6311(b)); (7) information on students not tested by grade and subject; (8) a teacher identifier system with the ability to match teachers to students; (9) student-level transcript information, including information on courses completed and grades earned; (10) student-level college readiness test scores; (11) information regarding the extent to which students transition successfully from secondary school to postsecondary education, including whether students enroll in remedial coursework; and (12) other information determined necessary to address alignment and adequate preparation for success in postsecondary education.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

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

Executive Order 12866

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

The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that the benefits of the final priorities, requirements, definitions, and criteria justify the costs.

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

Response to comments on cost/benefit analysis:

Administrative Burdens and Costs

Comment: While one commenter noted that Race to the Top would provide significant funding to pay for reform plans, a second commenter stated that Race to the Top would not provide enough money to cover State administrative costs, while another described the NPP's requirements as overly burdensome and bureaucratic. One commenter recommended that the Department reduce the number of criteria and the detail in each because of the administrative and staff burdens involved in completing an application. Two commenters said the NPP estimate of time required to complete Race to the Top applications and data collection was too low. Two other commenters said that the Department should work to ensure an ''integrated and coordinated approach'' to requesting data and information with this and other programs and was concerned that the current number of requirements might discourage States from applying. Three commenters recommended that States include LEAs in developing their Race to the Top plans to improve the likelihood of successful

implementation, control costs, and increase benefits.

Discussion: The Department agrees that sufficient funds will be available through the Race to the Top program, other Federal education programs, and State and local education resources to successfully implement Race to the Top plans. The Department also agrees that involving LEAs in developing Race to the Top plans will result in stronger, more cost-effective State plans. As for claims that Race to the Top requirements are overly burdensome and bureaucratic, the Department believes that each of the criteria and other requirements included in this final notice are essential for successfully evaluating Race to the Top applications, appropriately funding winning applications, and ensuring accountability for the use of Race to the Top funds. The Department also believes that its estimate of the time required to complete Race to the Top applications is reasonably accurate across the range of circumstances experienced by different States and LEAs. It is possible that some States will be deterred from applying for a Race to the Top grant because of the comprehensive nature of the program's requirements, but this is true of other voluntary competitive grant programs. The Department is working to streamline definitions and data collection across all ARRA programs as much as possible to minimize application and administrative burdens on States and LEAs. Finally, winning States will have considerable flexibility to use the 50 percent of Race to the Top funds that are not allocated to participating LEAs through the Title I, Part A formula to cover a wide range of costs related to administering awards, including grant oversight, monitoring, evaluation, data collection, and other activities.

Changes: None.

Using Other Federal Funding

Comment: One commenter suggested that the Department remind States of the flexibility of some Federal funding sources and encourage States to describe any Federal barriers to implementing their State plans and to request waivers of those provisions.

Discussion: The final notice encourages States, in criterion (A)(2)(i)(d), to coordinate, reallocate, or repurpose other Federal, State, and local sources ''where feasible'' to align such resources with Race to the Top goals. In response to the commenter, we note that such waivers and flexibilities are often limited by statute. However, the Department fully supports efforts to coordinate the use of funds in order to make the most efficient and effective use of limited resources and will continue to consider States' requests for waivers that are permissible under current Federal statutes and regulations.

Changes: None.

Impact on State Pension Plans

Comment: One commenter stated that a potential cost of this competition would be the reduced teacher contributions to the public pension plan if charter schools continue to multiply in the State.

Discussion: The Department is not in a position to consider the potential impact of increasing numbers of charter schools on contributions to teacher pension plans. However, we note that charter schools are public schools, and to the extent that charter school teachers are eligible to contribute to such pension plans, it seems reasonable that they would do so.

Changes: None.

Need for Federal Regulatory Action

These final priorities, requirements, definitions, and criteria are needed to implement the Race to the Top program. The Secretary does not believe that the statute, by itself, provides a sufficient level of detail to ensure that Race to the Top truly serves as a mechanism for driving significant education reform in the States. The authorizing language is very brief, and we believe the Congress likely expected the Secretary to augment this language, through rulemaking, in order to give greater meaning to the statutory provisions. Additionally, the statute expressly provides the Secretary the authority to require States to include in their application such information as the Secretary may reasonably require and to determine which States receive grants on the basis of other criteria as the Secretary determines appropriate.

In the absence of specific criteria for Race to the Top grants, the Department would use the general criteria in 34 CFR 75.210 of the Education Department General Administrative Regulations in selecting States to receive grants. The Secretary does not believe the use of those general criteria would be appropriate for the Race to the Top competition, because they do not focus on the educational reforms that States must be implementing in order to receive a Race to the Top grant, on the specific uses of funds under Race to the Top, or on the plans that the Secretary believes States should develop for their Race to the Top grants.

Summary of Costs and Benefits

The Department believes that the final priorities, requirements, definitions, and selection criteria will not impose significant costs on States, or on the LEAs and other entities that will receive assistance through the Race to the Top Fund. As discussed elsewhere, this final regulatory action is intended to create a framework for the award of approximately $4 billion in support of State and local efforts to implement critical educational reforms and to making substantial gains in student achievement, closing achievement gaps, improving high school graduation rates, and ensuring student preparation for success in college and careers. Without promulgation of priorities, requirements, definitions, and criteria for the Race to the Top competition, the Department would not have clear and defensible criteria for making very large grants to States.

The Department believes that the costs imposed on States by the final priorities, requirements, definitions, and selection criteria will be limited to the paperwork burden discussed elsewhere in this notice. The benefits conveyed on a State through its receipt of a grant will greatly exceed those costs. In addition, even States that apply but are unsuccessful in the competition may derive benefits, as the process of working with LEAs and other stakeholders on the State application may help accelerate the pace of education reforms in the State.

Accounting Statement

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

TABLE—ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

Category	Transfers (in millions)
Annual Monetized Transfers.	$3,956.
From Whom to Whom	Federal Government to States.

As previously explained, ARRA provides approximately $4.3 billion for the Race to the Top Fund (referred to in

the statute as State Incentive Grants). In this notice, we require additional specific priorities, requirements, definitions, and criteria regarding the applications that individual States submit for approximately $4 billion of Race to the Top funds. At a later date, we may announce a competition for a separate Race to the Top Assessment Program, for approximately $350 million, to support the development of assessments by consortia of States.

Paperwork Reduction Act of 1995

The application requirements and criteria finalized in this notice will require the collection of information that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The Department has received emergency approval for the information collections described below under Information Collection Reference Number 200910–1810–004.

Application Requirements

There are seven application requirements that States must meet when submitting their applications:

(a) Required signatures.

(b) Progress in the four education reform areas (as described in criterion (A)(3)(i)).

(c) The State's proposed budget (as described in criterion (A)(2)(i)(d)), including how it will (1) Achieve its targets (as described in criterion (A)(1)(iii)) and (2) give priority to high-need LEAs.

(d) Required information for State Reform Conditions Criteria.

(e) Required information for Reform Plan Criteria.

(f) Attorney General certification.

(g) Required information for addressing issues relating to assessments required under the ESEA or subgroups.

(Please see the Application Requirements section for detailed descriptions.)

Selection Criteria

There are 19 criteria that States may address when submitting their applications. These are—

(A)(1) *Articulating State's education reform agenda and LEAs' participation in it;*

(A)(2) *Building strong statewide capacity to implement, scale up, and sustain proposed plans;*

(A)(3) *Demonstrating significant progress in raising achievement and closing gaps;*

(B)(1) *Developing and adopting common standards;*

(B)(2) *Developing and implementing common, high-quality assessments;*

(B)(3) *Supporting the transition to enhanced standards and high-quality assessments;*

(C)(1) *Fully implementing a statewide longitudinal data system;*

(C)(2) *Accessing and using State data;*

(C)(3) *Using data to improve instruction;*

(D)(1) *Providing high-quality pathways for aspiring teachers and principals;*

(D)(2) *Improving teacher and principal effectiveness based on performance;*

(D)(3) *Ensuring equitable distribution of effective teachers and principals;*

(D)(4) *Improving the effectiveness of teacher and principal preparation programs;*

(D)(5) *Providing effective support to teachers and principals;*

(E)(1) *Intervening in the lowest-achieving schools and LEAs;*

(E)(2) *Turning around the lowest-achieving schools;*

(F)(1) *Making education funding a priority;*

(F)(2) *Ensuring successful conditions for high-performing charter schools and other innovative schools;*

(F)(3) *Demonstrating other significant reform conditions.*

(Please see the ''Selection Criteria'' section for detailed descriptions.)

We estimate that each SEA would spend approximately 681 hours of staff time to address the application requirements and criteria, prepare the application, and obtain necessary clearances. This estimate has increased slightly from the estimate of 642 hours in the NPP due to changes in the criteria. The total number of hours for all 52 SEAs is an estimated 35,412 hours (52 SEAs (the 50 States plus the District of Columbia and Puerto Rico) times 681 hours equals 35,412 hours). We estimate the average total cost per hour of the State-level staff who carry out this work to be $30.00 an hour. The total estimated cost for all States would be $1,062,360 ($30.00 × 35,412 hours = $1,062,360).

Regulatory Flexibility Act Certification: The Secretary certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities. The Secretary makes this certification because the only entities eligible to apply for grants are States, and States are not small entities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR Part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

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

Electronic Access to This Document: You 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) on the Internet at the following site: *http://www.ed.gov/news/fedregister*. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Dated: November 10, 2009.

Arne Duncan,

Secretary of Education.

Appendix A Evidence and Performance Measures

A. State Success Factors

(A)(1) Articulating State's Education Reform Agenda and LEAs' Participation in it

Evidence

Evidence for (A)(1)(ii):

- An example of the State's standard Participating LEA MOU, and description of variations used, if any.
- The completed summary table indicating which specific portions of the State's plan each LEA is committed to implementing, and relevant summary statistics (see Summary Table for (A)(1)(ii)(b)).
- The completed summary table indicating which LEA leadership signatures have been obtained (see Summary Table for (A)(1)(ii)(c)).

Evidence for (A)(1)(iii):

- The completed summary table indicating the numbers and percentages of participating LEAs, schools, K–12 students, and students in poverty (see Summary Table for (A)(1)(iii)).
- Tables and graphs that show the State's goals, overall and by subgroup, requested in the criterion, together with the supporting narrative. In addition, describe what the goals would look like were the State not to receive an award under this program.

Evidence for (A)(1)(ii) and (A)(1)(iii):

- The completed detailed table, by LEA, that includes the information requested in the criterion (see Detailed Table for (A)(1)).

Performance Measures

- None required.

(A)(2) Building Strong Statewide Capacity to Implement, Scale up, and Sustain Proposed Plans

Evidence

Evidence for (A)(2)(i)(d):

- The State's budget, as completed in Section XI of the application. The narrative that accompanies and explains the budget and how it connects to the State's plan, as completed in Section XI of the application.

Evidence for (A)(2)(ii):

- A summary in the narrative of the statements or actions and inclusion of key statements or actions in the Appendix.

Performance Measures

- None required.

(A)(3) Demonstrating Significant Progress in Raising Achievement and Closing Gaps

Evidence

Evidence for (A)(3)(ii):

NAEP and ESEA results since at least 2003. Include in the Appendix all the data requested in the criterion as a resource for peer reviewers for each year in which a test was given or data was collected. Note that this data will be used for reference only and can be in raw format. In the narrative, provide the analysis of this data and any tables or graphs that best support the narrative.

Performance Measures

- None required.

(B) Standards and Assessments

(B)(1) Developing and Adopting Common Standards

Evidence

Evidence for (B)(1)(i):

- A copy of the Memorandum of Agreement, executed by the State, showing that it is part of a standards consortium.
- A copy of the final standards or, if the standards are not yet final, a copy of the draft standards and anticipated date for completing the standards.
- Documentation that the standards are or will be internationally benchmarked and that, when well-implemented, will help to ensure that students are prepared for college and careers.
- The number of States participating in the standards consortium and the list of these States.

Evidence for (B)(1)(ii):

For Phase 1 applicants:

- A description of the legal process in the State for adopting standards, and the State's plan, current progress, and timeframe for adoption.

For Phase 2 applicants:

- Evidence that the State has adopted the standards. Or, if the State has not yet adopted the standards, a description of the legal process in the State for adopting standards and the State's plan, current progress, and timeframe for adoption.

Performance Measures

- None required.

(B)(2) Developing and Implementing Common, High-quality Assessments

Evidence

Evidence for (B)(2):

- A copy of the Memorandum of Agreement, executed by the State, showing that it is part of a consortium that intends to develop high-quality assessments (as defined in this notice) aligned with the consortium's common set of K–12 standards; or documentation that the State's consortium has applied, or intends to apply, for a grant through the separate Race to the Top Assessment Program (to be described in a subsequent notice); or other evidence of the State's plan to develop and adopt common, high-quality assessments (as defined in this notice).
- The number of States participating in the assessment consortium and the list of these States.

Performance Measures

- None required.

(B)(3) Supporting the Transition To Enhanced Standards and High-Quality Assessments

Evidence

- Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

- Optional.

(C) Data Systems To Support Instruction

(C)(1) Fully Implementing a Statewide Longitudinal Data System

Evidence

- Documentation for each of the America COMPETES Act elements (as defined in this notice) that is included in the State's statewide longitudinal data system.

Performance Measures

- None required.

(C)(2) Accessing and Using State Data

Evidence

- Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

- Optional.

(C)(3) Using Data To Improve Instruction

Evidence

- Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

- Optional.

(D) Great Teachers and Leaders

(D)(1) Providing High-Quality Pathways for Aspiring Teachers and Principals

Evidence for (D)(1)(i):

- A description of the State's applicable laws, statutes, regulations, or other relevant legal documents, including information on the elements of the State's alternative routes (as described in the alternative routes to certification definition in this notice).

Evidence for (D)(1)(ii):

- A list of the alternative certification programs operating in the State under the State's alternative routes to certification (as defined in this notice), and for each:
  - The elements of the program (as described in the alternative routes to certification definition in this notice).
  - The number of teachers and principals that successfully completed each program in the previous academic year.
  - The total number of teachers and principals certified statewide in the previous academic year.

Performance Measures

- None required.

(D)(2) Improving Teacher and Principal Effectiveness Based on Performance

Evidence

- Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

General goals to be provided at time of application, including baseline data and annual targets:

- (D)(2)(i) Percentage of participating LEAs that measure student growth (as defined in this notice).
- (D)(2)(ii) Percentage of participating LEAs with qualifying evaluation systems for teachers.

• (D)(2)(ii) Percentage of participating LEAs with qualifying evaluation systems for principals.

• (D)(2)(iv) Percentage of participating LEAs with qualifying evaluation systems that are used to inform:

○ (D)(2)(iv)(a) Developing teachers and principals.

○ (D)(2)(iv)(b) Compensating teachers and principals.

○ (D)(2)(iv)(b) Promoting teachers and principals.

○ (D)(2)(iv)(b) Retaining effective teachers and principals.

○ (D)(2)(iv)(c) Granting tenure and/or full certification (where applicable) to teachers and principals.

○ (D)(2)(iv)(d) Removing ineffective tenured and untenured teachers and principals.

General data to be provided at time of application, including baseline data:

• Total number of participating LEAs.

• Total number of principals in participating LEAs.

• Total number of teachers in participating LEAs.

Data to be requested of grantees in the future:

• (D)(2)(ii) Number of teachers and principals in participating LEAs with qualifying evaluation systems.

• (D)(2)(iii) Number of teachers and principals in participating LEAs with qualifying evaluation systems who were evaluated as effective or better in the prior academic year.

• (D)(2)(iii) Number of teachers and principals in participating LEAs with qualifying evaluation systems who were evaluated as ineffective in the prior academic year.

• (D)(2)(iv)(b) Number of teachers and principals in participating LEAs with qualifying evaluation systems whose evaluations were used to inform compensation decisions in the prior academic year.

• (D)(2)(iv)(b) Number of teachers and principals in participating LEAs with qualifying evaluation systems who were evaluated as effective or better and were retained in the prior academic year.

• (D)(2)(iv)(c) Number of teachers in participating LEAs with qualifying evaluation systems who were eligible for tenure in the prior academic year.

• (D)(2)(iv)(c) Number of teachers in participating LEAs with qualifying evaluation systems whose evaluations were used to inform tenure decisions in the prior academic year.

• (D)(2)(iv)(d) Number of teachers and principals in participating LEAs who were removed for being ineffective in the prior academic year.

(D)(3) Ensuring Equitable Distribution of Effective Teachers and Principals

Evidence

Evidence for (D)(3)(i):

• Definitions of high-minority and low-minority schools as defined by the State for the purposes of the State's Teacher Equity Plan.

Performance Measures

Note: All information below is requested for Participating LEAs.

Performance Measures for (D)(3)(i):

General goals to be provided at time of application, including baseline data and annual targets:

• Percentage of teachers in schools that are high-poverty, high-minority, or both (as defined in this notice) who are highly effective (as defined in this notice).

• Percentage of teachers in schools that are low-poverty, low-minority, or both (as defined in this notice) who are highly effective (as defined in this notice).

• Percentage of teachers in schools that are high-poverty, high-minority, or both (as defined in this notice) who are ineffective.

• Percentage of teachers in schools that are low-poverty, low-minority, or both (as defined in this notice) who are ineffective.

• Percentage of principals leading schools that are high-poverty, high-minority, or both (as defined in this notice) who are highly effective (as defined in this notice).

• Percentage of principals leading schools that are low-poverty, low-minority, or both (as defined in this notice) who are highly effective (as defined in this notice).

• Percentage of principals leading schools that are high-poverty, high-minority, or both (as defined in this notice) who are ineffective.

• Percentage of principals leading schools that are low-poverty, low-minority, or both (as defined in this notice) who are ineffective.

General data to be provided at time of application, including baseline data:

• Total number of schools that are high-poverty, high-minority, or both (as defined in this notice).

• Total number of schools that are low-poverty, low-minority, or both (as defined in this notice).

• Total number of teachers in schools that are high-poverty, high-minority, or both (as defined in this notice).

• Total number of teachers in schools that are low-poverty, low-minority, or both (as defined in this notice).

• Total number of principals leading schools that are high-poverty, high-minority, or both (as defined in this notice).

• Total number of principals leading schools that are low-poverty, low-minority, or both (as defined in this notice).

Data to be requested of grantees in the future:

• Number of teachers and principals in schools that are high-poverty, high-minority, or both (as defined in this notice) who were evaluated as highly effective (as defined in this notice) in the prior academic year.

• Number of teachers and principals in schools that are high-poverty, high-minority, or both (as defined in this notice) who were evaluated as ineffective in the prior academic year.

• Number of teachers and principals in schools that are low-poverty, low-minority, or both (as defined in this notice) who were evaluated as highly effective (as defined in this notice) in the prior academic year.

• Number of teachers and principals in schools that are low-poverty, low-minority, or both (as defined in this notice) who were evaluated as ineffective in the prior academic year.

Performance Measures for (D)(3)(ii):

General goals to be provided at time of application, including baseline data and annual targets:

• Percentage of mathematics teachers who were evaluated as effective or better.

• Percentage of science teachers who were evaluated as effective or better.

• Percentage of special education teachers who were evaluated as effective or better.

• Percentage of teachers in language instruction educational programs who were evaluated as effective or better.

General data to be provided at time of application, including baseline data:

• Total number of mathematics teachers.

• Total number of science teachers.

• Total number of special education teachers.

• Total number of teachers in language instruction educational programs.

Data to be requested of grantees in the future:

• Number of mathematics teachers in participating LEAs who were evaluated as effective or better in the prior academic year.

• Number of science teachers in participating LEAs who were evaluated as effective or better in the prior academic year.

• Number of special education teachers in participating LEAs who were evaluated as effective or better in the prior academic year.

• Number of teachers in language instruction educational programs in participating LEAs who were evaluated as effective or better in the prior academic year.

(D)(4) Improving the Effectiveness of Teacher and Principal Preparation Programs

Evidence

• Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

General goals to be provided at time of application, including baseline data and annual targets:

• Percentage of teacher preparation programs in the State for which the public can access data on the achievement and growth (as defined in this notice) of the graduates' students.

• Percentage of principal preparation programs in the State for which the public can access data on the achievement and growth (as defined in this notice) of the graduates' students.

General data to be provided at time of application, including baseline data:

• Total number of teacher credentialing programs in the State.

• Total number of principal credentialing programs in the State.

• Total number of teachers in the State.

• Total number of principals in the State.

Data to be requested of grantees in the future:

• Number of teacher credentialing programs in the State for which the information (as described in the criterion) is publicly reported.

• Number of teachers prepared by each credentialing program in the State for which the information (as described in the criterion) is publicly reported.

• Number of principal credentialing programs in the State for which the information (as described in the criterion) is publicly reported.

• Number of principals prepared by each credentialing program in the State for which the information (as described in the criterion) is publicly reported.

• Number of teachers in the State whose data are aggregated to produce publicly available reports on the State's credentialing programs.

• Number of principals in the State whose data are aggregated to produce publicly available reports on the State's credentialing programs.

(D)(5) Providing Effective Support to Teachers and Principals

Evidence

• Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

• Optional.

(E) Turning Around the Lowest-Achieving Schools

(E)(1) Intervening in the Lowest-Achieving Schools and LEAs

Evidence

Evidence for (E)(1):

• A description of the State's applicable laws, statutes, regulations, or other relevant legal documents.

Performance Measures

• None required.

(E)(2) Turning Around the Lowest-Achieving Schools

Evidence

• The State's historic performance on school turnaround, as evidenced by the total number of persistently lowest-achieving schools (as defined in this notice) that States or LEAs attempted to turn around in the last five years, the approach used, and the results and lessons learned to date.

Performance Measures

• The number of schools for which one of the four school intervention models (described in Appendix C) will be initiated each year.

(F) General

(F)(1) Making Education Funding a Priority

Evidence

Evidence for (F)(1)(i):

• Financial data to show whether and to what extent expenditures, as a percentage of the total revenues available to the State (as defined in this notice), increased, decreased, or remained the same.

Evidence for (F)(1)(ii):

• Any supporting evidence the State believes will be helpful to peer reviewers.

Performance Measures

• None required.

(F)(2) Ensuring Successful Conditions for High-Performing Charter Schools and Other Innovative Schools

Evidence

Evidence for (F)(2)(i):

• A description of the State's applicable laws, statutes, regulations, or other relevant legal documents.

• The number of charter schools allowed under State law and the percentage this represents of the total number of schools in the State.

• The number and types of charter schools currently operating in the State.

Evidence for (F)(2)(ii):

• A description of the State's approach to charter school accountability and authorization, and a description of the State's applicable laws, statutes, regulations, or other relevant legal documents.

• For each of the last five years:

○ The number of charter school applications made in the State.

○ The number of charter school applications approved.

○ The number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other).

○ The number of charter schools closed (including charter schools that were not reauthorized to operate).

○ The reasons for the closures or non-renewals (academic, financial, low enrollment, other).

Evidence for (F)(2)(iii):

• A description of the State's applicable statutes, regulations, or other relevant legal documents.

• A description of the State's approach to charter school funding, the amount of funding passed through to charter schools per student, and how those amounts compare with traditional public school per-student funding allocations.

Evidence for (F)(2)(iv):

• A description of the State's applicable statutes, regulations, or other relevant legal documents.

• A description of the statewide facilities supports provided to charter schools, if any.

Evidence for (F)(2)(v):

• A description of how the State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

Performance Measures

• None required.

(F)(3) Demonstrating Other Significant Reform Conditions

Evidence

Evidence for (F)(3):

• A description of the State's other applicable key education laws, statutes, regulations, or relevant legal documents.

Performance Measures

• None required.

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APPENDIX B. SCORING RUBRIC

I. Introduction

To help ensure inter-reviewer reliability and transparency for State Race to the Top applicants, the U.S. Department of Education has created and is publishing a rubric for scoring State applications. The pages that follow detail the rubric and allocation of point values that reviewers will be using. Race to the Top grants will be awarded on a competitive basis to States in two phases. The rubric will be used by reviewers in each phase to ensure consistency across and within review panels.

The rubric allocates points to each criterion and, in selected cases, to sub-criteria as well. In all, the Race to the Top scoring rubric includes 19 criteria and one competitive priority that collectively add up to 500 points. Several of these criteria account for a large number of points; others account for a comparatively small portion of a State's score.

It is important to emphasize that over half the points that reviewers may award to States are based on States' accomplishments prior to applying—their successes in increasing student achievement, decreasing the achievement gaps, increasing graduation rates, enlisting strong statewide support and commitment to their proposed plans, and creating legal conditions conducive to education reform and innovation. Finally, it bears underscoring that reviewers will be assessing multiple aspects of States' Race to the Top applications. States that fail to earn points or earn a low number of points on one criterion, can still win a Race to the Top award by presenting strong applications and histories of accomplishments on other criteria.

Notwithstanding the guidance being provided to reviewers, reviewers will still be required to make many thoughtful judgments about the quality of States' applications. Beyond judging a State's commitment to the four reform areas specified in the ARRA, reviewers will be assessing, based on the criteria, the comprehensiveness and feasibility of States' applications and plans. Reviewers will be asked to evaluate, for example, if States have set ambitious but achievable annual targets in their applications. Reviewers will need to make informed judgments about States' goals, the activities the State has chosen to undertake and the rationales for such activities, and the timeline and credibility of State plans.

Applicants address the absolute and competitive priorities throughout their applications. The absolute priority must be met in order for an applicant to receive funding. Applications that address the competitive priority comprehensively will earn extra points under that priority. Invitational priorities are extensions to the core reform areas; applicants are invited to address these, but are not granted additional points for doing so.

In this appendix there is information about the point values for each criterion and priority, guidance on scoring, and the rubric that will be provided to reviewers.

II. Points Overview

The chart below shows the maximum number of points that may be assigned to each criterion.

Selection Criteria	Points	Percent
A. State Success Factors	125	25%
(A)(1) Articulating State's education reform agenda and LEAs' participation in it	65	
(i) Articulating comprehensive, coherent reform agenda	*5*	
(ii) Securing LEA commitment	*45*	
(iii) Translating LEA participation into statewide impact	*15*	
(A)(2) Building strong statewide capacity to implement, scale up, and sustain proposed plans	30	
(i) Ensuring the capacity to implement	*20*	
(ii) Using broad stakeholder support	*10*	
(A)(3) Demonstrating significant progress in raising achievement and closing gaps	30	
(i) Making progress in each reform area	*5*	
(ii) Improving student outcomes	*25*	
B. Standards and Assessments	70	14%
(B)(1) Developing and adopting common standards	40	
(i) Participating in consortium developing high-quality standards	*20*	
(ii) Adopting standards	*20*	
(B)(2) Developing and implementing common, high-quality assessments	10	
(B)(3) Supporting the transition to enhanced standards and high-quality assessments	20	
C. Data Systems to Support Instruction	47	9%
(C)(1) Fully implementing a statewide longitudinal data system	24	
(C)(2) Accessing and using State data	5	
(C)(3) Using data to improve instruction	18	
D. Great Teachers and Leaders	138	28%
Eligibility Requirement (b)	eligibility	
(D)(1) Providing high-quality pathways for aspiring teachers and principals	21	
(D)(2) Improving teacher and principal effectiveness based on performance	58	
(i) Measuring student growth	*5*	
(ii) Developing evaluation systems	*15*	
(iii) Conducting annual evaluations	*10*	
(iv) Using evaluations to inform key decisions	*28*	
(D)(3) Ensuring equitable distribution of effective teachers and principals	25	
(i) Ensuring equitable distribution in high-poverty or high-minority schools	*15*	
(ii) Ensuring equitable distribution in hard-to-staff subjects and specialty areas	*10*	
(D)(4) Improving the effectiveness of teacher and principal preparation programs	14	
(D)(5) Providing effective support to teachers and principals	20	
E. Turning Around the Lowest-Achieving Schools	50	10%
(E)(1) Intervening in the lowest-achieving schools and LEAs	10	
(E)(2) Turning around the lowest-achieving schools	40	
(i) Identifying the persistently lowest-achieving schools	*5*	
(ii) Turning around the persistently lowest-achieving schools	*35*	
F. General	55	11%
Eligibility Requirement (a)	eligibility	
(F)(1) Making education funding a priority	10	
(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative s	40	
(F)(3) Demonstrating other significant reform conditions	5	
Competitive Preference Priority 2: Emphasis on STEM	15	3%
TOTAL	**500**	**100%**

Subtotal: Accomplishments	260	52%
Subtotal: Plans	240	48%

III. About Scoring

About State Reform Conditions Criteria: The goal for State Reform Conditions Criteria is to ensure that, wherever possible, reviewers are provided with criterion-specific guidance that is clear and specific, making the decisions as "objective" as possible. (See application requirement (d) for the guidance provided to States concerning responding to State Reform Conditions Criteria in their applications.)

About Reform Plan Criteria: For Reform Plan Criteria, reviewers will be given general guidance on how to evaluate the information that each State submits; this guidance will be consistent with application requirement (e). Reviewers will allot points based on the quality of the State's plan and, where specified in the text of the criterion, whether the State has set ambitious yet achievable annual targets for that plan. In making these judgments, reviewers will consider the extent to which the State has:

- *A high-quality plan.* In determining the quality of a State's plan for a given Reform Plan Criterion, reviewers will evaluate the key goals, the activities to be undertaken and rationale for the activities, the timeline, the parties responsible for implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted as supporting evidence). States are required to submit this information for each Reform Plan Criterion that the State addresses. States may also submit additional information that they believe will be helpful to peer reviewers.

- *Ambitious yet achievable annual targets* (only for those criteria that specify this). In determining whether a State has ambitious yet achievable annual targets for a given Reform Plan Criterion, reviewers will examine the State's targets in the context of the State's plan and the evidence submitted (if any) in support of the plan. There is no specific target that reviewers will be looking for here; nor will higher targets necessarily be rewarded above lower ones. Rather, reviewers will reward States for developing targets that – in light of the State's plan – are "ambitious yet achievable."

Note that the evidence that States submit may be relevant both to judging whether the State has a high-quality plan and whether its annual targets are ambitious yet achievable.

About Assigning Points: For each criterion, reviewers will assign points to an application. In general, the Department has specified total point values at the criterion level and in some instances, at the sub-criterion level. In the cases where the point totals have not been allocated to sub-criteria, each sub-criterion is weighted equally.

The reviewers will use the general ranges below as a guide when awarding points.

Maximum Point Value	Quality of Applicant's Response		
	Low	Medium	High
45	0 – 12	13 – 33	34 – 45
40	0 – 10	11 – 29	30 – 40
35	0 – 9	10 – 25	26 – 35
30	0 – 8	9 – 21	22 – 30
25	0 – 7	8 – 18	19 – 25

Maximum Point Value	Quality of Applicant's Response		
	Low	Medium	High
21	0 – 5	6 – 15	16 – 21
20	0 – 5	6 – 14	15 – 20
15	0 – 4	5 – 10	11 – 15
14	0 – 4	5 – 9	10 – 14
10	0 – 2	3 – 7	8 – 10
7	0 – 2	3 – 4	5 – 7
5	0 – 1	2 – 3	4 – 5

About Priorities: There are three types of priorities in the Race to the Top competition.

- The absolute priority cuts across the entire application and should not be addressed separately. It will be assessed, after the proposal has been fully reviewed and evaluated, to ensure that the application has met the priority. If an application has not met the priority, it will be eliminated from the competition.
- The competitive priority also cuts across the entire application. It is worth 15 points. Applicants will earn all or none of it, making it truly a competitive preference. In those cases where there is a disparity in the reviewers' determinations on the priority, the Department will award the competitive priority points only if a majority of the reviewers on a panel determine that an application should receive the priority points.
- The invitational priorities are addressed in their own separate sections. While applicants are invited to write to the invitational priorities, these will not earn points.

In the Event of a Tie: If two or more applications have the same score and there is not sufficient funding to support all of the tied applicants, the applicants' scores on criterion (A)(1)(ii), Securing LEA Commitment, will be used to break the tie.

IV. Reviewer Guidance for Criteria

A. State Success Factors

General Reviewer Guidance for (A)(1): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

Reviewer Guidance Specific to (A)(1)(ii):

- *The model Memorandum of Understanding (MOU), provided in Appendix D to this notice, is an example of a strong MOU.*

(A)(1) **(maximum total points: 65)** Articulating State's education reform agenda and LEAs' participation in it: The extent to which—

(i) **(maximum subpoints: 5)** The State has set forth a comprehensive and coherent reform agenda that clearly articulates its goals for implementing reforms in the four education areas described in the ARRA and improving student outcomes statewide, establishes a clear and credible path to achieving these goals, and is consistent with the specific reform plans that the State has proposed throughout its application;

(ii) **(maximum subpoints: 45)** The participating LEAs (as defined in this notice) are strongly committed to the State's plans and to effective implementation of reform in the four education areas, as evidenced by Memoranda of Understanding (MOUs) (as set forth in Appendix D) or other binding agreements between the State and its participating LEAs (as defined in this notice) that include—

(a) Terms and conditions that reflect strong commitment by the participating LEAs (as defined in this notice) to the State's plans;

(b) Scope-of-work descriptions that require participating LEAs (as defined in this notice) to implement all or significant portions of the State's Race to the Top plans; and

(c) Signatures from as many as possible of the LEA superintendent (or equivalent), the president of the local school board (or equivalent, if applicable), and the local teachers' union leader (if applicable) (one signature of which must be from an authorized LEA representative) demonstrating the extent of leadership support within participating LEAs (as defined in this notice); and

(iii) **(maximum subpoints: 15)** The LEAs that are participating in the State's Race to the Top plans (including considerations of the numbers and percentages of participating LEAs, schools, K-12 students, and students in poverty) will translate into broad statewide impact, allowing the State to reach its ambitious yet achievable goals, overall and by student subgroup, for—

(a) Increasing student achievement in (at a minimum) reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, as reported by the NAEP and the assessments required under the ESEA;

(c) Increasing high school graduation rates (as defined in this notice); and

(d) Increasing college enrollment (as defined in this notice) and increasing the number of students who complete at least a year's worth of college credit that is applicable to a degree within two years of enrollment in an institution of higher education.

General Reviewer Guidance for (A)(2): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(A)(2) **(maximum total points: 30)** Building strong statewide capacity to implement, scale up, and sustain proposed plans: The extent to which the State has a high-quality overall plan to—

(i) **(maximum subpoints: 20)** Ensure that it has the capacity required to implement its proposed plans by—

(a) Providing strong leadership and dedicated teams to implement the statewide education reform plans the State has proposed;

(b) Supporting participating LEAs (as defined in this notice) in successfully implementing the education reform plans the State has proposed, through such activities as identifying promising practices, evaluating these practices' effectiveness, ceasing ineffective practices, widely disseminating and replicating the effective practices statewide, holding participating LEAs (as defined in this notice) accountable for progress and performance, and intervening where necessary;

(c) Providing effective and efficient operations and processes for implementing its Race to the Top grant in such areas as grant administration and oversight, budget reporting and monitoring, performance measure tracking and reporting, and fund disbursement;

(d) Using the funds for this grant, as described in the State's budget and accompanying budget narrative, to accomplish the State's plans and meet its targets, including where feasible, by

coordinating, reallocating, or repurposing education funds from other Federal, State, and local sources so that they align with the State's Race to the Top goals;

(e) Using the fiscal, political, and human capital resources of the State to continue, after the period of funding has ended, those reforms funded under the grant for which there is evidence of success; and

(ii) **(maximum subpoints: 10)** Use support from a broad group of stakeholders to better implement its plans, as evidenced by the strength of statements or actions of support from—

(a) The State's teachers and principals, which include the State's teachers' unions or statewide teacher associations; and

(b) Other critical stakeholders, such as the State's legislative leadership; charter school authorizers and State charter school membership associations (if applicable); other State and local leaders (e.g., business, community, civil rights, and education association leaders); Tribal schools; parent, student, and community organizations (e.g., parent-teacher associations, nonprofit organizations, local education foundations, and community-based organizations); and institutions of higher education.

General Reviewer Guidance for (A)(3): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks, and to the evidence requested in the application and presented by the applicant (if any).

(A)(3) **(maximum total points: 30)** Demonstrating significant progress in raising achievement and closing gaps: The extent to which the State has demonstrated its ability to—

(i) **(maximum subpoints: 5)** Make progress over the past several years in each of the four education reform areas, and used its ARRA and other Federal and State funding to pursue such reforms;

(ii) **(maximum subpoints: 25)** Improve student outcomes overall and by student subgroup since at least 2003, and explain the connections between the data and the actions that have contributed to—

(a) Increasing student achievement in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA;

(b) Decreasing achievement gaps between subgroups in reading/language arts and mathematics, both on the NAEP and on the assessments required under the ESEA; and

(c) Increasing high school graduation rates.

B. Standards and Assessments

State Reform Conditions Criteria

General Reviewer Guidance for (B)(1): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (B)(1)(i)(b) – Significant Number of States:

- *"High" points for a significant number of States are earned if the consortium includes a majority of the States in the country.*
- *"Medium" or "low" points are earned if the consortium includes one-half of the States in the country or less.*

Reviewer Guidance Specific to (B)(1)(ii):
- *"High" points are earned for: Phase 1 applicants' commitment to and progress toward adoption by August 2, 2010; and Phase 2 applicants' adoption by August 2, 2010.*
- *No "Medium" points are assigned for this criterion.*
- *"Low" points are earned for a high-quality plan to adopt by a later specified date in 2010.*
- *No points are earned for a plan that is not high-quality or for a plan to adopt later than 2010.*

(B)(1) **(maximum total points: 40)** Developing and adopting common standards: The extent to which the State has demonstrated its commitment to adopting a common set of high-quality standards, evidenced by (as set forth in Appendix B)—

(i) **(maximum subpoints: 20)** The State's participation in a consortium of States that—

(a) Is working toward jointly developing and adopting a common set of K-12 standards (as defined in this notice) that are supported by evidence that they are internationally benchmarked and build toward college and career readiness by the time of high school graduation; and

(b) Includes a significant number of States; and

(ii) **(maximum subpoints: 20)** (a) For Phase 1 applications, the State's high-quality plan demonstrating its commitment to and progress toward adopting a common set of K-12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State, and to implementing the standards thereafter in a well-planned way; or

(b) For Phase 2 applications, the State's adoption of a common set of K-12 standards (as defined in this notice) by August 2, 2010, or, at a minimum, by a later date in 2010 specified by the State in a high-quality plan toward which the State has made significant progress, and its commitment to implementing the standards thereafter in a well-planned way.[15]

General Reviewer Guidance for (B)(2): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (B)(2)(ii)—Significant Number of States:
- *"High" points for a significant number of States are earned if the consortium includes a majority of the States in the country.*
- *"Medium" or "low" points are earned if the consortium includes one-half of the States in the country or less.*

(B)(2) **(maximum total points: 10)** Developing and implementing common, high-quality assessments: The extent to which the State has demonstrated its commitment to improving the quality of its assessments, evidenced by (as set forth in Appendix B) the State's participation in a consortium of States that—

(i) Is working toward jointly developing and implementing common, high-quality assessments (as defined in this notice) aligned with the consortium's common set of K-12 standards (as defined in this notice); and

(ii) Includes a significant number of States.

[15] Phase 2 applicants addressing selection criterion (B)(1)(ii) may amend their June 1, 2010 application submission by submitting evidence of adopting common standards after June 1, 2010 but before August 2, 2010.

Reform Plan Criteria

General Reviewer Guidance for (B)(3): In judging the quality of the applicant's plan and annual targets (if any) for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(B)(3) **(maximum total points: 20)** Supporting the transition to enhanced standards and high-quality assessments: The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for supporting a statewide transition to and implementation of internationally benchmarked K-12 standards that build toward college and career readiness by the time of high school graduation, and high-quality assessments (as defined in this notice) tied to these standards. State or LEA activities might, for example, include: developing a rollout plan for the standards together with all of their supporting components; in cooperation with the State's institutions of higher education, aligning high school exit criteria and college entrance requirements with the new standards and assessments; developing or acquiring, disseminating, and implementing high-quality instructional materials and assessments (including, for example, formative and interim assessments (both as defined in this notice)); developing or acquiring and delivering high-quality professional development to support the transition to new standards and assessments; and engaging in other strategies that translate the standards and information from assessments into classroom practice for all students, including high-need students (as defined in this notice).

C. Data Systems to Support Instruction

State Reform Conditions Criteria

General Reviewer Guidance for (C)(1): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (C)(1):

- *Applicants earn two (2) points for every element the State has, out of 12 elements possible.*

(C)(1) **(maximum total points: 24)** Fully implementing a statewide longitudinal data system: The extent to which the State has a statewide longitudinal data system that includes all of the America COMPETES Act elements (as defined in this notice).

Reform Plan Criteria

General Reviewer Guidance for (C)(2): In judging the quality of the applicant's plan and annual targets (if any) for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(C)(2) **(maximum total points: 5)** Accessing and using State data: The extent to which the State has a high-quality plan to ensure that data from the State's statewide longitudinal data system are accessible to, and used to inform and engage, as appropriate, key stakeholders (e.g.,

parents, students, teachers, principals, LEA leaders, community members, unions, researchers, and policymakers); and that the data support decision-makers in the continuous improvement of efforts in such areas as policy, instruction, operations, management, resource allocation, and overall effectiveness.[16]

General Reviewer Guidance for (C)(3): In judging the quality of the applicant's plan and annual targets (if any) for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(C)(3) **(maximum total points: 18)** Using data to improve instruction: The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan to—

(i) Increase the acquisition, adoption, and use of local instructional improvement systems (as defined in this notice) that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;

(ii) Support participating LEAs (as defined in this notice) and schools that are using instructional improvement systems (as defined in this notice) in providing effective professional development to teachers, principals, and administrators on how to use these systems and the resulting data to support continuous instructional improvement; and

(iii) Make the data from instructional improvement systems (as defined in this notice), together with statewide longitudinal data system data, available and accessible to researchers so that they have detailed information with which to evaluate the effectiveness of instructional materials, strategies, and approaches for educating different types of students (e.g., students with disabilities, English language learners, students whose achievement is well below or above grade level).

D. Great Teachers and Leaders

State Reform Conditions Criteria

General Reviewer Guidance for (D)(1): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (D)(1):

- *The criterion must be judged for both teachers and principals.*

Reviewer Guidance Specific to (D)(1)(i):

- *"High" points are earned by States that have alternative routes that (a) permit providers who operate independently of institutions of higher education (IHEs), and (b) include at least 4 of the 5 elements listed in the definition of alternative routes to certification (as defined in this notice).*
- *"Medium" points are earned by States that have alternative routes that (a) permit providers who operate independently of IHEs, and (b) include at least 2 of the 5 elements listed in the definition of alternative routes to certification (as defined in this notice).*

[16] Successful applicants that receive Race to the Top grant awards will need to comply with the Family Educational Rights and Privacy Act (FERPA), including 34 CFR Part 99, as well as State and local requirements regarding privacy.

- *"Low" points are earned by States that have alternative routes that (a) do not permit providers who operate independently of IHEs, OR (b) include only 1 of the 5 elements listed in the definition of alternative routes to certification (as defined in this notice).*

(D)(1) **(maximum total points: 21)** Providing high-quality pathways for aspiring teachers and principals: The extent to which the State has—

(i) Legal, statutory, or regulatory provisions that allow alternative routes to certification (as defined in this notice) for teachers and principals, particularly routes that allow for providers in addition to institutions of higher education;

(ii) Alternative routes to certification (as defined in this notice) that are in use; and

(iii) A process for monitoring, evaluating, and identifying areas of teacher and principal shortage and for preparing teachers and principals to fill these areas of shortage.

Reform Plan Criteria

General Reviewer Guidance for (D)(2): In judging the quality of the applicant's response to this criterion and annual targets, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

Reviewer Guidance Specific to (D)(2):

- *The criterion must be judged for both teachers and principals.*

(D)(2) **(maximum total points: 58)** Improving teacher and principal effectiveness based on performance: The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to ensure that participating LEAs (as defined in this notice)—

(i) **(maximum subpoints: 5)** Establish clear approaches to measuring student growth (as defined in this notice) and measure it for each individual student;

(ii) **(maximum subpoints: 15)** Design and implement rigorous, transparent, and fair evaluation systems for teachers and principals that (a) differentiate effectiveness using multiple rating categories that take into account data on student growth (as defined in this notice) as a significant factor, and (b) are designed and developed with teacher and principal involvement;

(iii) **(maximum subpoints: 10)** Conduct annual evaluations of teachers and principals that include timely and constructive feedback; as part of such evaluations, provide teachers and principals with data on student growth for their students, classes, and schools; and

(iv) **(maximum subpoints: 28)** Use these evaluations, at a minimum, to inform decisions regarding—

(a) Developing teachers and principals, including by providing relevant coaching, induction support, and/or professional development;

(b) Compensating, promoting, and retaining teachers and principals, including by providing opportunities for highly effective teachers and principals (both as defined in this notice) to obtain additional compensation and be given additional responsibilities;

(c) Whether to grant tenure and/or full certification (where applicable) to teachers and principals using rigorous standards and streamlined, transparent, and fair procedures; and

(d) Removing ineffective tenured and untenured teachers and principals after they have had ample opportunities to improve, and ensuring that such decisions are made using rigorous standards and streamlined, transparent, and fair procedures.

General Reviewer Guidance for (D)(3): In judging the quality of the applicant's plan and annual targets for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(D)(3) **(maximum total points: 25)** Ensuring equitable distribution of effective teachers and principals: The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan and ambitious yet achievable annual targets to—

(i) **(maximum subpoints: 15)** Ensure the equitable distribution of teachers and principals by developing a plan, informed by reviews of prior actions and data, to ensure that students in high-poverty and/or high-minority schools (both as defined in this notice) have equitable access to highly effective teachers and principals (both as defined in this notice) and are not served by ineffective teachers and principals at higher rates than other students; and

(ii) **(maximum subpoints: 10)** Increase the number and percentage of effective teachers (as defined in this notice) teaching hard-to-staff subjects and specialty areas including mathematics, science, and special education; teaching in language instruction educational programs (as defined under Title III of the ESEA); and teaching in other areas as identified by the State or LEA.

Plans for (i) and (ii) may include, but are not limited to, the implementation of incentives and strategies in such areas as recruitment, compensation, teaching and learning environments, professional development, and human resources practices and processes.

General Reviewer Guidance for (D)(4): In judging the quality of the applicant's plan and annual targets for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

Reviewer Guidance Specific to (D)(4):

- *The criterion must be judged for both teachers and principals.*

(D)(4) **(maximum total points: 14)** Improving the effectiveness of teacher and principal preparation programs: The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) Link student achievement and student growth (both as defined in this notice) data to the students' teachers and principals, to link this information to the in-State programs where those teachers and principals were prepared for credentialing, and to publicly report the data for each credentialing program in the State; and

(ii) Expand preparation and credentialing options and programs that are successful at producing effective teachers and principals (both as defined in this notice).

General Reviewer Guidance for (D)(5): In judging the quality of the applicant's plan and annual targets (if any) for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(D)(5) **(maximum total points: 20)** Providing effective support to teachers and principals: The extent to which the State, in collaboration with its participating LEAs (as defined in this notice), has a high-quality plan for its participating LEAs (as defined in this notice) to—

(i) Provide effective, data-informed professional development, coaching, induction, and common planning and collaboration time to teachers and principals that are, where appropriate, ongoing and job-embedded. Such support might focus on, for example, gathering, analyzing, and using data; designing instructional strategies for improvement; differentiating instruction; creating school environments supportive of data-informed decisions; designing instruction to meet the specific needs of high-need students (as defined in this notice); and aligning systems and removing barriers to effective implementation of practices designed to improve student learning outcomes; and

(ii) Measure, evaluate, and continuously improve the effectiveness of those supports in order to improve student achievement (as defined in this notice).

E. Turning Around the Lowest-Achieving Schools

State Reform Conditions Criteria

General Reviewer Guidance for (E)(1): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (E)(1):

- *10 points are earned by States that can intervene directly in both schools and LEAs.*
- *5 points are earned by States that can intervene directly in either schools or LEAs, but not both.*
- *0 points are earned by States that cannot intervene in either schools or LEAs.*

(E)(1) **(maximum total points: 10)** Intervening in the lowest-achieving schools and LEAs: The extent to which the State has the legal, statutory, or regulatory authority to intervene directly in the State's persistently lowest-achieving schools (as defined in this notice) and in LEAs that are in improvement or corrective action status.

Reform Plan Criteria

General Reviewer Guidance for (E)(2): In judging the quality of the applicant's plan and annual targets for this criterion, reviewers should refer to what the criterion asks, to the evidence requested in the application and presented by the applicant (if any), and to the elements of a high-quality plan as set forth in application requirement (d).

(E)(2) **(maximum total points: 40)** Turning around the lowest-achieving schools: The extent to which the State has a high-quality plan and ambitious yet achievable annual targets to—

(i) **(maximum subpoints: 5)** Identify the persistently lowest-achieving schools (as defined in this notice) and, at its discretion, any non-Title I eligible secondary schools that would be considered persistently lowest-achieving schools (as defined in this notice) if they were eligible to receive Title I funds; and

(ii) **(maximum subpoints: 35)** Support its LEAs in turning around these schools by implementing one of the four school intervention models (as described in Appendix C): turnaround model, restart model, school closure, or transformation model (provided that an LEA with more than nine persistently lowest-achieving schools may not use the transformation model for more than 50 percent of its schools).

F. General

State Reform Conditions Criteria

General Reviewer Guidance for (F)(1): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (F)(1)(i):

- *"High" points are earned if the percentage of the total revenues available to the State that were used to support elementary, secondary, and public higher education increased from FY2008 to FY2009.*
- *"Medium" points are earned if the percentage of the total revenues available to the State that were used to support elementary, secondary, and public higher education were substantially unchanged from FY2008 to FY2009.*
- *"Low" points are earned if the percentage of the total revenues available to the State that were used to support elementary, secondary, and public higher education decreased from FY2008 to FY2009.*

(F)(1) **(maximum total points: 10)** Making education funding a priority: The extent to which—

(i) The percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2009 was greater than or equal to the percentage of the total revenues available to the State (as defined in this notice) that were used to support elementary, secondary, and public higher education for FY 2008; and

(ii) The State's policies lead to equitable funding (a) between high-need LEAs (as defined in this notice) and other LEAs, and (b) within LEAs, between high-poverty schools (as defined in this notice) and other schools.

General Reviewer Guidance for (F)(2): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

Reviewer Guidance Specific to (F)(2)(i):

- *"High" points are earned if the State either has no cap on the number of charter schools, or it has a "high" cap (defined as a cap such that, if it were filled, ≥10% of the total schools in the State would be charter schools); and the State does not have restrictions, such as those referenced in the "note to reviewers" below, that would be considered even mildly inhibiting.*
- *"Medium" points are earned if the State has a "medium" cap on the number of charter schools (defined as a cap such that, if it were filled, ≥5% and <10% of the total schools in the State would be charter schools); or the charter school law has sufficient flexibility to allow for an increase in the number of charter schools as if it were a medium or higher cap (e.g. by allowing for the creation of multiple campuses under the same charter); and the State does not have restrictions, such as those referenced in the "note to reviewers" below, that would be considered moderately or severely inhibiting.*
- *"Low" points are earned if the State has a "low" cap on the number of charter schools (defined as a cap such that, if it were filled, <5% of the total schools in the State would be charter schools) OR if the State has restrictions, such as those referenced in the "note to reviewers" below, that would be considered severely inhibiting.*
- *No points are earned if the State has no charter school law.*
- *Note to reviewers: Charter school laws are so complex that it is hard to write rules to capture each possible obstacle to charter school growth; therefore, this rubric is meant to guide reviewers, not to bind them. For example, if a State limits the number of charter schools by limiting the share of statewide or district-level funding that can go to charter schools, rather than by explicitly limiting the number of charter schools, reviewers should convert the funding restriction into an approximately equivalent limit on the number of schools and fit that into the guidelines here. As reviewers assess the inhibitions on charter schools, they should look for restrictions such as: disallowing certain types of charter schools (e.g., startups or conversions); restricting charter schools to operate in certain geographic areas; and limiting the number, percent, or demographics of students that may enroll in charter schools. Some States have "smart caps" designed to restrict growth to high-performing charter schools; this is not a problem unless it effectively restricts any new (i.e., unproven) charter schools from starting.*

Reviewer Guidance Specific to (F)(2)(iii):

- *"High" points are earned if the per-pupil funding to charter school students is ≥90% of that which is provided to traditional public school students.*
- *"Medium" points are earned if the per-pupil funding to charter school students is 80-89% of that which is provided to traditional public school students.*
- *"Low" points are earned if the per-pupil funding to charter school students is ≤79% of that which is provided to traditional public school students, or the State does not have a charter school law.*
- *No points are earned if the State has no charter school law.*

(F)(2) **(maximum total points: 40)** Ensuring successful conditions for high-performing charter schools and other innovative schools: The extent to which—

(i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as

set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools.

(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools.

(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues.

(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools.

(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

General Reviewer Guidance for (F)(3): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).

(F)(3) **(maximum total points: 5)** Demonstrating other significant reform conditions: The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

V. Reviewer Guidance for Priorities

Absolute Priority Guidance: The application will be judged to ensure that it has met the absolute priority set forth below. The absolute priority cuts across the entire application and should not be addressed separately. It is assessed, after the proposal has been fully reviewed and evaluated, to ensure that the application has met the priority. If an application has not met the priority, it will be eliminated from the competition.

Priority 1: Absolute Priority – Comprehensive Approach to Education Reform

To meet this priority, the State's application must comprehensively and coherently address all of the four education reform areas specified in the ARRA as well as the State Success Factors Criteria in order to demonstrate that the State and its participating LEAs are taking a systemic approach to education reform. The State must demonstrate in its application sufficient LEA participation and commitment to successfully implement and achieve the goals in its plans; and it must describe how the State, in collaboration with its participating LEAs, will use Race to the Top and other funds to increase student achievement, decrease the achievement gaps across student subgroups, and increase the rates at which students graduate from high school prepared for college and careers.

Competitive Priority Guidance: The application will be judged to determine whether it has met the competitive preference priority set forth below. The competitive preference priority will be evaluated in the context of the State's entire application. Therefore, a State that is responding to this priority should address it throughout the application, as appropriate, and provide a summary of its approach to addressing the priority. The reviewers will assess the priority as part of their review of a State's application and determine whether it has been met.

Priority 2: Competitive Preference Priority – Emphasis on Science, Technology, Engineering, and Mathematics (STEM). (competitive preference points: 15, all or nothing)

To meet this priority, the State's application must have a high-quality plan to address the need to (i) offer a rigorous course of study in mathematics, the sciences, technology, and engineering; (ii) cooperate with industry experts, museums, universities, research centers, or other STEM-capable community partners to prepare and assist teachers in integrating STEM content across grades and disciplines, in promoting effective and relevant instruction, and in offering applied learning opportunities for students; and (iii) prepare more students for advanced study and careers in the sciences, technology, engineering, and mathematics, including by addressing the needs of underrepresented groups and of women and girls in the areas of science, technology, engineering, and mathematics.

Invitational Priority Guidance: No points are awarded for invitational priorities.

Priority 3: Invitational Priority – Innovations for Improving Early Learning Outcomes.

The Secretary is particularly interested in applications that include practices, strategies, or programs to improve educational outcomes for high-need students who are young children (pre-kindergarten through third grade) by enhancing the quality of preschool programs. Of particular interest are proposals that support practices that (i) improve school readiness (including social, emotional, and cognitive); and (ii) improve the transition between preschool and kindergarten.

Invitational Priority Guidance: No points are awarded for invitational priorities.

Priority 4: Invitational Priority – Expansion and Adaptation of Statewide Longitudinal Data Systems.

The Secretary is particularly interested in applications in which the State plans to expand statewide longitudinal data systems to include or integrate data from special education programs, English language learner programs,[17] early childhood programs, at-risk and dropout prevention programs, and school climate and culture programs, as well as information on student mobility, human resources (i.e., information on teachers, principals, and other staff), school finance, student health, postsecondary education, and other relevant areas, with the purpose of connecting and coordinating all parts of the system to allow important questions related to policy, practice, or overall effectiveness to be asked, answered, and incorporated into effective continuous improvement practices.

The Secretary is also particularly interested in applications in which States propose working together to adapt one State's statewide longitudinal data system so that it may be used, in whole or in part, by one or more other States, rather than having each State build or continue building such systems independently.

[17] The term English language learner, throughout this notice, is meant to include students who are limited English proficient, as defined in section 9101 of the ESEA.

Invitational Priority Guidance: *No points are awarded for invitational priorities.*

Priority 5: Invitational Priority – P-20 Coordination, Vertical and Horizontal Alignment.

The Secretary is particularly interested in applications in which the State plans to address how early childhood programs, K-12 schools, postsecondary institutions, workforce development organizations, and other State agencies and community partners (e.g., child welfare, juvenile justice, and criminal justice agencies) will coordinate to improve all parts of the education system and create a more seamless preschool-through-graduate school (P-20) route for students. Vertical alignment across P-20 is particularly critical at each point where a transition occurs (e.g., between early childhood and K-12, or between K-12 and postsecondary/careers) to ensure that students exiting one level are prepared for success, without remediation, in the next. Horizontal alignment, that is, coordination of services across schools, State agencies, and community partners, is also important in ensuring that high-need students (as defined in this notice) have access to the broad array of opportunities and services they need and that are beyond the capacity of a school itself to provide.

Invitational Priority Guidance: *No points are awarded for invitational priorities.*

Priority 6: Invitational Priority – School-Level Conditions for Reform, Innovation, and Learning.

The Secretary is particularly interested in applications in which the State's participating LEAs (as defined in this notice) seek to create the conditions for reform and innovation as well as the conditions for learning by providing schools with flexibility and autonomy in such areas as--

(i) Selecting staff;

(ii) Implementing new structures and formats for the school day or year that result in increased learning time (as defined in this notice);

(iii) Controlling the school's budget;

(iv) Awarding credit to students based on student performance instead of instructional time;

(v) Providing comprehensive services to high-need students (as defined in this notice) (e.g., by mentors and other caring adults; through local partnerships with community-based organizations, nonprofit organizations, and other providers);

(vi) Creating school climates and cultures that remove obstacles to, and actively support, student engagement and achievement; and

(vii) Implementing strategies to effectively engage families and communities in supporting the academic success of their students.

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Appendix C School Intervention Models

There are four school intervention models referred to in Selection Criterion (E)(2): Turnaround model, restart model, school closure, or transformation model. Each is described below.

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

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

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

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

(B) Select new staff;

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

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

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

(vi) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as

well as aligned with State academic standards;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Comprehensive instructional reform strategies.*

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

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

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

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

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

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

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

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

(E) In secondary schools—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If a school identified as a persistently lowest-achieving school has implemented, in whole or in part within the last two years, an intervention that meets the requirements of the turnaround, restart, or transformation models, the school may continue or complete the intervention being implemented.

Appendix D Participating LEA Memorandum of Understanding

Background

Participating LEAs (as defined in this notice) in a State's Race to the Top plans are required to enter into a Memorandum of Understanding (MOU) or other binding agreement with the State that specifies the scope of the work being implemented by the participating LEA (as defined in this notice).

To support States in working efficiently with LEAs to determine which LEAs will participate in the State's Race to the Top application, the U.S. Department of Education has produced a model MOU, which is attached. This model MOU may serve as a template for States; however, States are not required to use it. They may use a different document that includes the key features noted below and in the model, and they should consult with their State and local attorneys on what is most appropriate for their State that includes, at a minimum, these key elements.

The purpose of the model MOU is to help to specify a relationship that is specific to Race to the Top and is not meant to detail all typical aspects of State/LEA grant management or administration. At a minimum, a strong MOU should include the following, each of which is described in detail below: (i) Terms and conditions; (ii) a scope of work; and, (iii) signatures.

(i) Terms and conditions: Each participating LEA (as defined in this notice) should sign a standard set of terms and conditions that includes, at a minimum, key roles and responsibilities of the State and the LEA; State recourse for LEA non-performance; and assurances that make clear what the participating LEA (as defined in this notice) is agreeing to do.

(ii) Scope of work: MOUs should include a scope of work (included in the model MOU as Exhibit I) that is completed by each participating LEA (as defined in this notice). The scope of work must be signed and dated by an authorized LEA and State official. In the interest of time and with respect for the effort it will take for LEAs to develop detailed work plans, the scope of work submitted by LEAs and States as part of their Race to the Top applications may be preliminary. Preliminary scopes of work should include the portions of the State's proposed reform plans that the LEA is agreeing to implement. (Note that in order to participate in a State's Race to the Top application an LEA must agree to implement all or significant portions of the State's reform plans.)

If a State is awarded a Race to the Top grant, the participating LEAs (as defined in this notice) will have up to 90 days to complete final scopes of work (which could be attached to the model MOU as Exhibit II), which must contain detailed work plans that are consistent with the preliminary scope of work and with the State's grant application, and should include the participating LEA's (as defined in this notice) specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures.

(iii) Signatures: The signatures demonstrate (a) an acknowledgement of the relationship between the LEA and the State, and (b) the strength of the participating LEA's (as defined in this notice) commitment.

- With respect to the relationship between the LEA and the State, the State's counter-signature on the MOU indicates that the LEA's commitment is consistent with the requirement that a participating LEA (as defined in this notice) implement all or significant portions of the State's plans.
- The strength of the participating LEA's (as defined in this notice) commitment will be demonstrated by the signatures of the LEA superintendent (or an equivalent authorized signatory), the president of the local school board (or equivalent, if applicable) and the local teacher's union leader (if applicable).

Please note the following with regard to the State's Race to the Top application:

- In its application, the State need only provide an example of the State's standard Participating LEA MOU; it does not have to provide copies of every MOU signed by its participating LEAs (as defined in this notice). If, however, States and LEAs have made any changes to the State's standard MOU, the State must provide description of the changes that were made. Please note that the Department may, at any time, request copies of all MOUs between the State and its participating LEAs.
- Please see criterion (A)(1)(ii) and (A)(1)(iii), and the evidence requested in the application, for more information and ways in which States will be asked to summarize information about the LEA MOUs.

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Model Participating LEA Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into by and between _____ ("State") and _____ ("Participating LEA"). The purpose of this agreement is to establish a framework of collaboration, as well as articulate specific roles and responsibilities in support of the State in its implementation of an approved Race to the Top grant project.

I. SCOPE OF WORK

Exhibit I, the Preliminary Scope of Work, indicates which portions of the State's proposed reform plans ("State Plan") the Participating LEA is agreeing to implement. (Note that, in order to participate, the LEA must agree to implement all or significant portions of the State Plan.)

II. PROJECT ADMINISTRATION

A. PARTICIPATING LEA RESPONSIBILITIES

In assisting the State in implementing the tasks and activities described in the State's Race to the Top application, the Participating LEA subgrantee will:

1) Implement the LEA plan as identified in Exhibits I and II of this agreement;
2) Actively participate in all relevant convenings, communities of practice, or other practice-sharing events that are organized or sponsored by the State or by the U.S. Department of Education ("ED");
3) Post to any website specified by the State or ED, in a timely manner, all non-proprietary products and lessons learned developed using funds associated with the Race to the Top grant;
4) Participate, as requested, in any evaluations of this grant conducted by the State or ED;
5) Be responsive to State or ED requests for information including on the status of the project, project implementation, outcomes, and any problems anticipated or encountered;
6) Participate in meetings and telephone conferences with the State to discuss (a) progress of the project, (b) potential dissemination of resulting non-proprietary products and lessons learned, (c) plans for subsequent years of the Race to the Top grant period, and (d) other matters related to the Race to the Top grant and associated plans.

B. STATE RESPONSIBILITIES

In assisting Participating LEAs in implementing their tasks and activities described in the State's Race to the Top application, the State grantee will:

1) Work collaboratively with, and support the Participating LEA in carrying out the LEA Plan as identified in Exhibits I and II of this agreement;
2) Timely distribute the LEA's portion of Race to the Top grant funds during the course of the project period and in accordance with the LEA Plan identified in Exhibit II;
3) Provide feedback on the LEA's status updates, annual reports, any interim reports, and project plans and products; and
4) Identify sources of technical assistance for the project.

C. JOINT RESPONSIBILITIES

1) The State and the Participating LEA will each appoint a key contact person for the Race to the Top grant.

2) These key contacts from the State and the Participating LEA will maintain frequent communication to facilitate cooperation under this MOU.
3) State and Participating LEA grant personnel will work together to determine appropriate timelines for project updates and status reports throughout the whole grant period.
4) State and Participating LEA grant personnel will negotiate in good faith to continue to achieve the overall goals of the State's Race to the Top grant, even when the State Plan requires modifications that affect the Participating LEA, or when the LEA Plan requires modifications.

D. STATE RECOURSE FOR LEA NON-PERFORMANCE

If the State determines that the LEA is not meeting its goals, timelines, budget, or annual targets or is not fulfilling other applicable requirements, the State grantee will take appropriate enforcement action, which could include a collaborative process between the State and the LEA, or any of the enforcement measures that are detailed in 34 CFR section 80.43 including putting the LEA on reimbursement payment status, temporarily withholding funds, or disallowing costs.

III. ASSURANCES

The Participating LEA hereby certifies and represents that it:
1) Has all requisite power and authority to execute this MOU;
2) Is familiar with the State's Race to the Top grant application and is supportive of and committed to working on all or significant portions of the State Plan;
3) Agrees to be a Participating LEA and will implement those portions of the State Plan indicated in Exhibit I, if the State application is funded,
4) Will provide a Final Scope of Work to be attached to this MOU as Exhibit II only if the State's application is funded; will do so in a timely fashion but no later than 90 days after a grant is awarded; and will describe in Exhibit II the LEA's specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures ("LEA Plan ") in a manner that is consistent with the Preliminary Scope of Work (Exhibit I) and with the State Plan; and
5) Will comply with all of the terms of the Grant, the State's subgrant, and all applicable Federal and State laws and regulations, including laws and regulations applicable to the Program, and the applicable provisions of EDGAR (34 CFR Parts 75, 77, 79, 80, 82, 84, 85, 86, 97, 98 and 99).

IV. MODIFICATIONS

This Memorandum of Understanding may be amended only by written agreement signed by each of the parties involved, and in consultation with ED.

V. DURATION/TERMINATION

This Memorandum of Understanding shall be effective, beginning with the date of the last signature hereon and, if a grant is received, ending upon the expiration of the grant project period, or upon mutual agreement of the parties, whichever occurs first.

VI. SIGNATURES

LEA Superintendent (or equivalent authorized signatory) - required:

_____

Signature/Date

_____

Print Name/Title

President of Local School Board (or equivalent, if applicable):

_____

Signature/Date

_____

Print Name/Title

Local Teachers' Union Leader (if applicable):

_____

Signature/Date

_____

Print Name/Title

Authorized State Official - required:
By its signature below, the State hereby accepts the LEA as a Participating LEA.

_____

Signature/Date

_____

Print Name/Title

A. EXHIBIT I – PRELIMINARY SCOPE OF WORK

LEA hereby agrees to participate in implementing the State Plan in each of the areas identified below.

Elements of State Reform Plans	LEA Participation (Y/N)	Comments from LEA (optional)
B. Standards and Assessments		
(B)(3) Supporting the transition to enhanced standards and high-quality assessments		
C. Data Systems to Support Instruction		
(C)(3) Using data to improve instruction:		
(i) Use of local instructional improvement systems		
(ii) Professional development on use of data		
(iii) Availability and accessibility of data to researchers		
D. Great Teachers and Leaders		
(D)(2) Improving teacher and principal effectiveness based on performance:		
(i) Measure student growth		
(ii) Design and implement evaluation systems		
(iii) Conduct annual evaluations		
(iv)(a) Use evaluations to inform professional development		
(iv)(b) Use evaluations to inform compensation, promotion, and retention		
(iv)(c) Use evaluations to inform tenure and/or full certification		
(iv)(d) Use evaluations to inform removal		
(D)(3) Ensuring equitable distribution of effective teachers and principals:		
(i) High-poverty and/or high-minority schools		
(ii) Hard-to-staff subjects and specialty areas		
(D)(5) Providing effective support to teachers and principals:		
(i) Quality professional development		
(ii) Measure effectiveness of professional development		
E. Turning Around the Lowest-Achieving Schools		
(E)(2) Turning around the lowest-achieving schools		

For the Participating LEA

Authorized Signature/Date

Print Name/Title

For the State

Authorized Signature/Date

Print Name/Title

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