GUIDANCE

ON

FISCAL YEAR 2010 SCHOOL IMPROVEMENT GRANTS

UNDER SECTION 1003(g) OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

U.S. Department of Education

Office of Elementary and Secondary Education

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TABLE OF CONTENTS

PURPOSE OF THIS GUIDANCE xvi

A. DEFINITIONS 1

A-1. What is the definition of "persistently lowest-achieving schools"? 1

A-2. Does a Title I high school need to meet both the requirements in paragraphs (a)(i) and (a)(ii) of the definition of "persistently lowest-achieving schools" set forth in A-1 to be identified? 1

A-3. What factors must an SEA consider to identify the persistently lowest-achieving schools in the State? 2

A-4. For purposes of identifying the persistently lowest-achieving schools in the State, what assessments does an SEA use to determine academic achievement and lack of progress? 2

A-5. For purposes of identifying the persistently lowest-achieving schools in a State, what is the "all students" group? 2

A-6. For purposes of identifying the persistently lowest-achieving schools in a State, which students does an SEA include to determine the percentage of students who are proficient in a school? 2

A-7. In determining proficiency of the "all students" group, does an SEA include students who are above proficient? 2

A-8. For purposes of identifying the persistently lowest-achieving schools in a State, what is a secondary school? 3

A-9. For purposes of identifying the persistently lowest-achieving schools in a State, what does it mean to be a secondary school "that is eligible for" Title I funds? 3

A-10. As used in the definition of "persistently lowest-achieving schools," how many years make up a "number of years"? 3

A-11. From among which sets of schools must an SEA identify the lowest-achieving five percent or the lowest-achieving five schools? 3

A-12. May an SEA weight differently the two factors it must consider in identifying the persistently lowest-achieving schools (i.e., academic achievement of the "all students" group and lack of progress on the State's assessments)? 4

A-13. In ranking its schools on the basis of each school's academic achievement results of the "all students" group and lack of progress on the State's assessments for purposes of identifying the persistently lowest-achieving schools in the State, may an SEA give different weight to its secondary schools and its elementary schools? 4

A-14. May an SEA take into account other factors in addition to those that it must consider in identifying the persistently lowest-achieving schools? 4

A-15. How can an SEA determine academic achievement in terms of proficiency of the "all students" group on the State's reading/language arts and mathematics assessments combined to develop one list of schools that will enable it to identify the persistently lowest-achieving schools in the State? 4

A-16. For purposes of identifying the persistently lowest-achieving schools, how can an SEA determine whether a school has demonstrated a "lack of progress over a number of years" on the State's assessments? 6

A-17a. What may an SEA do if the secondary schools the SEA is identifying as Tier II schools are significantly higher achieving than Title I-participating secondary schools that the SEA cannot identify as Tier I schools? 8

A-17b. May an SEA exclude very small schools from its list of persistently lowest-achieving schools? 9

A-17c. If an SEA does not have sufficient data to implement its definition of "persistently lowest-achieving schools" with respect to a particular school, may the SEA exclude that school from its list? 10

A-17d. If an SEA or LEA has initiated steps to close a school, must the SEA include the school on its list of persistently lowest-achieving schools? 10

A-18. What is the complete sequence of steps an SEA should use to develop its final list of the persistently lowest-achieving schools in the State? 10

A-19. Do provisions related to SIG funds in the Consolidated Appropriations Act, 2010 affect the definition of "persistently lowest-achieving schools" or the school intervention models? 12

A-20. What is a "newly eligible school," as that phrase is used in this guidance? 13

A-21. Which newly eligible schools may an SEA identify as Tier I schools? 13

A-22. Which newly eligible schools may an SEA identify as Tier II schools? 13

A-23. In determining whether a newly eligible school is no higher achieving than the highest-achieving school that the SEA has identified as a persistently lowest-achieving school in Tier I or Tier II, what does the SEA consider? 14

A-24. Which newly eligible schools may be identified as Tier III schools? 14

A-25. With respect to the newly eligible schools that may be identified as Tier I, Tier II, or Tier III schools, may a school that is "eligible for Title I, Part A funds" be either a school that is eligible for, but does not receive, Title I, Part A funds or a school that is eligible for, and does receive, Title I, Part A funds? 14

A-26. To be identified as a Tier III school, must a newly eligible school that is not in the State's lowest quintile of performance have failed to make AYP for two consecutive years? 15

A-27. Must an SEA identify as Tier I, Tier II, or Tier III schools any of the newly eligible schools? 15

A-28. Does an SEA's decision to identify newly eligible schools as Tier I, Tier II, or Tier III schools affect the schools that it must identify as Tier I, Tier II, and Tier III schools? 15

A-29. If an SEA does not identify any newly eligible schools as Tier I, Tier II, or Tier III schools, may an LEA identify these schools and apply for SIG funds to serve them? 15

A-30. If an SEA chooses to identify newly eligible schools as Tier I, Tier II, or Tier III schools, once identified, are those schools treated any differently than any other Tier I, Tier II, or Tier III schools? 15

A-30a. In preparing for the FY 2010 SIG competition (which includes FY 2010 funds and any FY 2009 carryover funds), must an SEA generate new lists of Tier I, Tier II, and Tier III schools using the most recent achievement and graduation rate data it has available? 17

A-30b. What must an SEA with fewer than five unserved Tier I schools from its FY 2009 competition do to identify Tier I, Tier II, and Tier III schools for its FY 2010 competition? 18

A-30c. What may an SEA with five or more unserved Tier I schools from its FY 2009 competition do with respect to identifying Tier I, Tier II, and Tier III schools for its FY 2010 competition? 19

A-30d. For an SEA that generates new lists of schools for its FY 2010 competition, from among which schools must the SEA identify the persistently lowest-achieving schools that comprise the core of Tier I and Tier II schools? 19

A-30e. For an SEA that generates new lists of schools, will the number of schools the SEA identifies as persistently lowest achieving for FY 2010 be the same as the number of schools it identified for FY 2009? 20

A-30f. How should an SEA that is generating new lists of Tier I, Tier II, and Tier III schools for its FY 2010 SIG competition (either voluntarily or because it must do so) take into account Tier I, Tier II, and Tier III schools that were funded through the FY 2009 competition? 20

A-30g. Must Tier I, Tier II, and Tier III schools served with SIG funds through the FY 2009 SIG competition be included in the pool of schools from which an SEA identifies the bottom five percent of schools (or five schools) for Tier I and Tier II for the FY 2010 competition? 21

A-30h. May Tier I, Tier II, and Tier III schools served with SIG funds through the FY 2009 competition be counted toward the number of Tier I and Tier II schools that the SEA must identify as the bottom five percent of schools (or five schools) for purposes of the FY 2010 competition? 21

A-30i. Must an SEA that generates new lists of Tier I, Tier II, and Tier III schools request the Tier II waiver or n-size waiver, respectively, in its FY 2010 SIG application if it requested and received either or both of those waivers for FY 2009? 23

A-30j. May an SEA revise its definition of "persistently lowest-achieving schools" for purposes of identifying schools for its FY 2010 competition? 23

A-30k. May an SEA stop taking advantage of the flexibility to identify "newly eligible" schools? 23

A-31. What is the definition of "increased learning time"? 24

A-32. Does the definition of "increased learning time" include before- or after-school instructional programs? 24

A-32a. May an LEA use SIG funds to pay for the portion of a teacher's salary that is attributable to providing increased learning time beyond the regular school day, week, or year? 24

A-32b. How may an LEA determine what costs are attributable to providing increased learning time beyond the regular school day, week, or year? 25

A-32c. May an LEA use SIG funds to offset transportation costs associated with providing increased learning time? 25

A-32d. Must an LEA provide a minimum number of hours to meet the requirement in the turnaround and transformation models regarding providing increased learning time? 26

A-33. What is the definition of "student growth"? 26

A-34. Why is it necessary to define "student growth" for purposes of SIG grants? 26

B. TURNAROUND MODEL 26

B-1. What are the required elements of a turnaround model? 26

B-2. In addition to the required elements, what optional elements may also be a part of a turnaround model? 27

B-3. What is the definition of "staff" as that term is used in the discussion of a turnaround model? 28

B-3a. The response to B-3 states that "staff" includes "all instructional staff." Does "all instructional staff" mean only teachers of core academic subjects or does it also

include physical education teachers and teachers of other non-core academic subjects? 28

B-4. What are "locally adopted competencies"? 28

B-5. Is an LEA implementing the turnaround model required to use financial incentives, increased opportunities for promotion and career growth, and more flexible conditions as strategies to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a turnaround model? 29

B-6. What is job-embedded professional development? 29

B-7. Does the requirement to implement an instructional program that is research-based and aligned (vertically and with State standards) require adoption of a new or revised instructional program? 30

B-8. What are examples of social-emotional and community-oriented services that may be supported with SIG funds in a school implementing a turnaround model? 30

B-9. May an LEA omit any of the actions outlined in the final requirements and implement its own version of a turnaround model? 31

C. RESTART MODEL **31**

C-1. What is the definition of a restart model? 31

C-2. What is a CMO? 31

C-3. What is an EMO? 31

C-4. Prior to submitting its application for SIG funds, must an LEA know the particular EMO or CMO with which it would contract to restart a school? 31

C-5. What is the purpose of the "rigorous review process" used for selecting a charter school operator, a CMO, or an EMO? 32

C-6. Which students must be permitted to enroll in a school implementing a restart model? 32

C-6a. May an EMO or CMO with which an LEA contracts to implement a restart model require students or parents to agree to certain conditions in order to attend the school? 32

C-7. May a restart school serve fewer grades than were previously served by the school in which the model is being implemented? 32

C-8. May a school implementing a restart model implement any of the required or permissible activities of a turnaround model or a transformation model? 33

C-9. If an LEA implements a restart model, must its contract with the charter school operator, CMO, or EMO hold the charter school operator, CMO, or EMO accountable for meeting the final requirements? 33

C-10. May an LEA use SIG funds to pay a fee to a CMO or EMO to operate a restart model? 33

D. SCHOOL CLOSURE **34**

D-1. What is the definition of "school closure"? 34

D-1a. How important is it for an LEA to engage families and the community in the LEA's decision to close a persistently lowest-achieving school? 34

D-2. What costs associated with closing a school can be paid for with SIG funds? 34

D-3. May SIG funds be used in the school that is receiving students who previously attended a school that is subject to closure in order to cover the costs associated with accommodating those students? 34

D-4. Is the portion of an LEA's SIG subgrant that is to be used to implement a school closure renewable? 35

D-5. How can an LEA determine whether a higher-achieving school is within reasonable proximity to a closed school? 35

D-6. In what kinds of schools may students who previously attended a closed school enroll? 35

E. TRANSFORMATION MODEL **36**

E-1. With respect to elements of the transformation model that are the same as elements of the turnaround model, do the definitions and other guidance that apply to those elements as they relate to the turnaround model also apply to those elements as they relate to the transformation model? 36

E-2. Which activities related to developing and increasing teacher and school leader effectiveness are required for an LEA implementing a transformation model? 36

E-3. Must the principal and teachers involved in the development and design of the evaluation system be the principal and teachers in the school in which the transformation model is being implemented? 37

E-4. Under the final requirements, an LEA implementing the transformation model must remove staff "who, after ample opportunities have been provided for them to improve their professional practice, have not done so." Does an LEA have discretion to determine the appropriate number of such opportunities that must be provided and what are some examples of such "opportunities" to improve? 37

E-5. In addition to the required activities, what other activities related to developing and increasing teacher and school leader effectiveness may an LEA undertake as part of its implementation of a transformation model? 37

E-6. How does the optional activity of "providing additional compensation to attract and retain" certain staff differ from the requirement to implement strategies designed to recruit, place, and retain certain staff? 37

E-7. Which activities related to comprehensive instructional reform strategies are required as part of the implementation of a transformation model? 38

E-8. In addition to the required activities, what other activities related to comprehensive instructional reform strategies may an LEA undertake as part of its implementation of a transformation model? 38

E-9. What activities related to increasing learning time and creating community-oriented schools are required for implementation of a transformation model? 39

E-10. What is meant by the phrase "family and community engagement" and what are some examples of ongoing mechanisms for family and community engagement? 39

E-10a. How should an LEA design mechanisms to support family and community engagement? 39

E-11. In addition to the required activities, what other activities related to increasing learning time and creating community-oriented schools may an LEA undertake as part of its implementation of a transformation model? 39

E-11a. What are examples of services an LEA might provide to create safe school environments that meet students' social, emotional, and health needs? 40

E-12. How does the optional activity of extending or restructuring the school day to add time for strategies that build relationships between students, faculty, and other school staff differ from the requirement to provide increased learning time? 40

E-13. What activities related to providing operational flexibility and sustained support are required for implementation of a transformation model? 40

E-14. Must an LEA implementing the transformation model in a school give the school operational flexibility in the specific areas of staffing, calendars/time, and budgeting? 41

E-15. In addition to the required activities, what other activities related to providing operational flexibility and sustained support may an LEA undertake as part of its implementation of a transformation model? 41

E-16. In implementing the transformation model in an eligible school, may an LEA gather data during the first year of SIG funding on student growth, multiple observation-based

assessments of performance, and ongoing collections of professional practice reflective of student achievement, and then remove staff members who have not improved their professional practice at the end of that first year? 41

E-17. May an LEA implement the transformation model in a high school that has grades 9-12 by assigning the current principal to grades 10-12 and hiring a new principal to lead a 9th-grade academy? 41

F. CROSS-CUTTING ISSUES **42**

F-1. How may an LEA implement the turnaround, school closure, restart, or transformation intervention models in a Tier I school operating a targeted assistance program? 42

F-2. What is the timeline for implementing an intervention model in a Tier I or Tier II school using FY 2010 and/or FY 2009 carryover SIG funds? 42

F-3. What requirements that apply to schools receiving Title I, Part A funds apply to schools that receive SIG funds? 43

F-4. Must SIG funds supplement, and not supplant, non-Federal funds a school would otherwise receive? 43

F-5. What action must an LEA take if it receives SIG funds to implement one of the four models in a particular school and subsequently is unable to implement the model in that school? 44

F-6. May an LEA use SIG funds for general district-level improvement activities? 44

F-7. How can an LEA ensure that it is able to implement fully and effectively all required components of a selected school intervention model, given that some components may be affected by collective bargaining agreements or other contracts? 44

F-7a. In implementing a school intervention model, must an LEA comply with State and local laws and agreements, including collective bargaining agreements? 45

F-8. What are an SEA's responsibilities for ensuring proper implementation of SIG grants? 45

F-9. May an SEA require an LEA to adopt a particular model for a particular school? 46

F-10. Is an SEA or LEA that receives SIG funds required to comply with applicable Federal civil rights laws? 46

G. PROVIDING FLEXIBILITY **46**

G-1. May an SEA award SIG funds to an LEA for a Tier I or Tier II school that has implemented, in whole or in part, a turnaround model, restart model, or transformation model within the last two years? 46

G-1a. To take advantage of the flexibility afforded in Section I.B.1 of the final requirements with respect to the FY 2010 SIG competition, what is the earliest time at which an LEA could have begun implementing, in whole or in part, a school intervention model?.....47

G-1b. Does the flexibility afforded in Section I.B.1 of the final requirements enable an LEA to retain any principal who has been hired for a Tier I or Tier II school within the last two years?.....47

G-1c. How should an LEA determine the number of staff members that must be replaced for purposes of implementing the turnaround model when the LEA is taking advantage of the flexibility to continue an intervention it has begun to implement within the last two years?.....47

G-2. May an SEA award SIG funds to an LEA for a Tier III school that has implemented, in whole or in part, a turnaround model, restart model, or transformation model within the last two years so that the LEA and school can continue or complete their implementation of the model?.....48

G-3. For which statutory requirements affecting an LEA's ability to implement fully and effectively the intervention models described in the final requirements is the Secretary specifically inviting an SEA to seek a waiver?.....48

G-4. What would the new improvement timeline be for a school implementing a school improvement timeline waiver of section 1116(b)(12) of the ESEA?.....49

G-4a. Please confirm which schools may implement a waiver to "start over" the accountability timeline if implementing a turnaround or restart model......49

G-5. If an SEA received a waiver of section 421(b) of GEPA to extend the period of availability of its FY 2009 SIG funds through its FY 2009 SIG application, does it need to request this waiver again for its FY 2009 carryover funds?.....49

G-6. May an SEA request a waiver of section 421(b) of GEPA to extend the period of availability of its FY 2010 SIG funds?.....50

G-6a. On what basis may an SEA request a waiver to extend the period of availability of its FY 2010 SIG funds?.....51

G-6b. If an SEA does not receive a waiver to extend the period of availability of its FY 2010 SIG funds, will an LEA that receives FY 2010 SIG funds to implement a school intervention model implement the model over three years?.....52

G-7. What is the process for an SEA to apply for waivers specifically integral to implementing SIG grants?.....52

G-8. What is the process for an LEA to request approval to implement a SIG-related waiver granted to an SEA?.....52

G-9. Prior to applying for one or more of the waivers discussed in the final requirements through the submission of its application for SIG funds, must an SEA comply with the notice-and-comment requirements in section 9401 of the ESEA? 52

G-10. Must an SEA seek any of the waivers discussed in the final requirements? 52

H. LEA REQUIREMENTS 53

H-1. Which LEAs may apply for a SIG grant? 53

H-2. May an educational service agency apply for a SIG grant on behalf of one or more LEAs? 53

H-3. Must an LEA that wishes to receive FY 2010 SIG funds submit a new application? 53

H-4. What must an LEA include in its application to the SEA for SIG funds? 53

H-4a. Should families and other members of the community be included among the relevant stakeholders with whom an LEA consults regarding its application for SIG funds and implementation of school improvement models in its Tier I and Tier II schools? 55

H-5. Must an LEA identify every Tier I, Tier II, and Tier III school located within the LEA in its application for SIG funds? 55

H-6. Must an LEA commit to serve every Tier I school located within the LEA? 55

H-7. How might an LEA demonstrate that it lacks sufficient capacity to serve one or more of its Tier I schools? 55

H-8. Is an LEA obligated to serve its Tier II schools? 56

H-9. May an LEA take into account whether it will serve one or more of its Tier II schools in determining its capacity to serve its Tier I schools? 56

H-10. May an LEA commit to serving only its Tier II schools? 56

H-11. May an LEA commit to serving only its Tier III schools? 56

H-12. May an LEA commit to serving only a portion of its Tier III schools? 56

H-12a. May an LEA continue to serve as a Tier III school a school that was previously identified as a Tier III school and is being served in 2010–2011 with FY 2009 SIG funds but is identified as a Tier I or Tier II school for the FY 2010 SIG competition? 57

H-12b. May an LEA receive FY 2010 or FY 2009 carryover SIG funds for a Tier III school that also is receiving FY 2009 SIG funds as a result of the FY 2009 competition? 57

H-13. How do the requirements and limitations described in H-6 through H-12c work together to guide an LEA's determination of which schools it must commit to serve with SIG funds? 57

H-14. If an LEA wishes to serve a Tier III school, must it provide SIG funds directly to the school? 58

H-15. Are there any particular school improvement strategies that an LEA must implement in its Tier III schools? 59

H-16. May an LEA use SIG funds to continue to implement school improvement strategies that do not meet the requirements of one of the four models but that have helped improve achievement in the LEA? 59

H-17. May an LEA implement several of the school intervention models among the Tier I and Tier II schools it commits to serve? 59

H-18. How can an LEA demonstrate that it has the capacity to use SIG funds to provide adequate resources and related support to each Tier I and Tier II school it commits to serve in order to implement fully and effectively one of the four school intervention models? 59

H-19. How can an LEA use "external providers" to turn around its persistently lowest-achieving schools? 59

H-19a. How should an LEA select external providers to assist it in turning around its persistently lowest-achieving schools? 60

H-20. What are examples of "other resources" an LEA might align with the interventions it commits to implement using SIG funds? 60

H-21. What is the cap on the number of schools in which an LEA may implement the transformation model and to which LEAs does it apply? 60

H-21a. If an LEA that was not subject to the nine-school cap for FY 2009 is subject to the cap for FY 2010 because it now has nine or more Tier I and Tier II schools and is already exceeding the cap based on the number of schools in which it is implementing the transformation model in 2010–2011, must it change the model being implemented in some of those schools in order to comply with the cap? 61

H-22. If an LEA lacks capacity to implement any of the four interventions in all of its Tier I schools, may it apply for SIG funds to provide other services to some of its Tier I schools? 61

H-23. May an LEA use SIG funds to serve a school that feeds into a Tier I, Tier II, or Tier III school, but is not itself a Tier I, Tier II, or Tier III school? 61

H-24. What criteria must an LEA use to monitor each Tier I and Tier II school that receives SIG funds? 61

H-25. What are examples of the annual goals for student achievement that an LEA must establish for its Tier I and Tier II schools? 62

H-26. What are examples of the goals an LEA must establish to hold accountable the Tier III schools it serves with SIG funds? 62

H-27. What are the leading indicators that will be used to hold schools receiving SIG funds accountable? 62

H-28. Is there a limit on the amount of SIG funds an LEA may carry over? 63

H-29. May an LEA use SIG funds to pay for the costs of minor remodeling necessary to support technology that will be used as part of the implementation of a school intervention model? 63

I. SEA REQUIREMENTS **64**

I-1. What must an SEA do to receive an FY 2010 SIG grant? 64

I-2. Before approving an LEA's application, what factors must an SEA consider to determine whether the application meets the final requirements? 65

I-3. In completing its application for SIG funds, must an SEA check the boxes that appear on the application next to each of the required assurances in order to make those assurances? Must it check the boxes next to the requirements for which a waiver may be sought if it wants to receive waivers of those requirements? 66

I-4. May an SEA require an LEA to implement a particular intervention in one or more of its schools? 66

I-4a. May an SEA impose additional requirements for the implementation of the SIG program beyond those set forth in the final requirements? 66

I-5. May an SEA develop a needs assessment tool or rubric for all of its LEAs to use in determining which intervention will best address the needs of the Tier I and Tier II schools it commits to serve? 67

I-6. What information related to the SIG program must an SEA post on its Web site? 67

I-7. How must an SEA prioritize among LEAs seeking SIG funds? 67

I-8. May an SEA award an LEA funds to serve its Tier III schools before it awards funds to serve all of the Tier I and Tier II schools that its LEAs commit to serve and that its LEAs have capacity to serve? 67

I-9. If an SEA does not have sufficient SIG funds to allocate funds for every Tier I and Tier II school that its LEAs seek to serve, and that the SEA determines its LEAs have capacity to serve, what factors might an SEA use to determine the Tier I and Tier II schools for which it will award funds to its LEAs? 68

I-9a. May an SEA use the number of students in a school as a priority factor for awarding SIG funds? 68

I-10. May an SEA award an LEA a lesser amount of SIG funds than the LEA requests in its application? 68

I-10a. What is the maximum amount of SIG funds that an SEA may award to an LEA for an individual Tier I or Tier II school? 68

I-10b. May an SEA reduce the amount it allocates each year over a three-year period to an LEA for its persistently lowest-achieving schools to ensure sustainability after the funding runs out? 69

I-11. What are examples of additional criteria an SEA may use to differentiate among Tier III schools when setting priorities among LEA applications for funding? 69

I-12. May an SEA take over an LEA or specific Tier I or Tier II schools? 69

I-13. What SIG funds may an SEA use to implement a school intervention model in a Tier I or Tier II school it has taken over? 69

I-14. Under what circumstances may an SEA provide services directly to an eligible school? 69

I-15. If a Tier I or Tier II school meets the annual student achievement goals established by the LEA and makes progress on the leading indicators, must the SEA renew the LEA's SIG grant with respect to that school? 70

I-16. If a Tier I or Tier II school does not meet the annual student achievement goals established by the LEA, may an SEA renew the LEA's SIG grant with respect to that school? 70

I-17. What goals must a Tier III school meet to establish that the LEA's grant with respect to that school must be renewed? 70

I-18. May an SEA renew an LEA's SIG grant even if the SEA determines that one or more of its schools do not warrant renewed funding? 70

I-19. What happens to SIG funds when an SEA does not renew funding to schools? 71

I-20. May an SEA renew an LEA's SIG grant with respect to a school that exits improvement? 71

I-20a. Which year's funds does an SEA use to renew an LEA's SIG grant? 71

I-21. Must an SEA run another SIG competition for grants funded with FY 2010 funds? 71

I-22. Must an SEA carry over 25 percent of its FY 2010 SIG funds if it does not serve all of its Tier I schools through its competition for FY 2010 SIG funds? 71

I-24. How can an SEA support its LEAs and schools with their implementation of the school intervention models discussed in the final requirements? 72

I-24a. How can an SEA provide technical assistance to its LEAs regarding their processes for recruiting, screening, and selecting external providers to ensure their quality? 72

I-25. How do the final requirements for the SIG program impact an SEA that is participating in the Department's "differentiated accountability" pilot? 72

I-26. In the absence of a waiver, when will the period of availability for FY 2010 SIG funds expire? 73

I-27. With respect to the use of FY 2009 SIG funds, is an SEA obligated to ensure that its LEAs spend only ARRA SIG funds, and not SIG funds made available through the regular FY 2009 appropriation, pursuant to the flexibility in the Consolidated Appropriations Act, 2010? 73

I-28. May an SEA allocate its FY 2009 ARRA SIG funds before its FY 2009 SIG regular funds or must it combine all its SIG funds and allocate them simultaneously? If an SEA may allocate its FY 2009 ARRA SIG funds first, does the SEA need to require its LEAs to submit separate applications—one for the FY 2009 ARRA SIG funds and one for the FY 2009 SIG regular funds? 73

I-29. May an SEA allocate funds it reserves under section 1003(a) of the ESEA along with section 1003(g) funds in making SIG grant awards to its LEAs in order to increase the total amount available to implement the SIG program? 73

I-30. What should an SEA consider in determining whether a particular use of SIG funds proposed by an LEA for a Tier I or Tier II school it commits to serve is allowable? 74

J. PRE-IMPLEMENTATION* 75

J-1. May an LEA use FY 2010 and/or FY 2009 carryover SIG funds for "pre-implementation"? 75

J-2. What are examples of SIG-related activities that may be carried out in the 2010–2011 school year in preparation for full implementation in the 2011–2012 school year? 75

J-3. When may an LEA begin using FY 2010 and/or FY 2009 carryover SIG funds to prepare for full implementation of an intervention model in the 2011–2012 school year? 76

J-4. Is there a limit on the amount of SIG funds that an LEA may spend during the pre-implementation period that begins when it receives FY 2010 and/or FY 2009 carryover SIG funds? 77

J-5. May SIG funds be used to recruit and hire the incoming principal and leadership team, who will begin planning for full implementation in the 2011–2012 school year? 77

J-6. May SIG funds be used to continue paying unassigned teachers who have been removed from the classroom? 77

J-7. May an LEA use SIG funds to buy out the remainder of the current principal's contract? 78

J-8. For a school implementing the restart model, may an LEA use SIG funds to conduct the rigorous review process required to select a charter school operator, a CMO, or an EMO? 78

J-9. May an LEA use SIG funds to hire external providers to assist in planning for and carrying out activities necessary for full implementation of a school intervention model in the following year? 78

J-10. May an LEA use SIG funds prior to full implementation to provide supplemental remediation or enrichment to students in schools that will begin full implementation of a SIG model at the beginning of the 2011–2012 school year? 79

J-11. May an LEA use SIG funds to pilot an evaluation system for teachers and principals at schools receiving SIG funds to implement a transformation model? 79

J-12. May an LEA use SIG funds to pay for a needs assessment in order to select appropriate school intervention models for inclusion in the LEA's SIG application? 80

J-13. May an LEA use SIG funds during pre-implementation in a targeted assistance school that will fully implement a school intervention model through a schoolwide waiver beginning in the 2011–2012 school year? 80

J-14. May an LEA use SIG funds for minor remodeling of school facilities to enable the use of technology? 80

K. REPORTING METRICS **81**

K-1. May an SEA add to the list of leading indicators in the final requirements? 81

K-2. Which of the reporting metrics are new for the SIG program and must be annually reported by an SEA receiving a SIG grant? 81

K-3. For which schools must an SEA report on the metrics that are new for the SIG program? 81

K-4. For which metrics must an SEA report "baseline data" for the school year prior to the implementation of one of the four interventions? 81

K-5. How frequently must an SEA report on the SIG metrics? 82

K-6. Will the Department provide other guidance about the process for submitting and the substance to be included in the required reports? 82

School Improvement Grants Under Section 1003(g) of the Elementary and Secondary Education Act of 1965

PURPOSE OF THIS GUIDANCE

The School Improvement Grants (SIG) program is authorized by section 1003(g) of the Elementary and Secondary Education Act of 1965 (ESEA). Under section 1003(g)(1) of the ESEA, the Secretary must "award grants to States to enable the States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 1116." From a grant received pursuant to that provision, a State educational agency (SEA) must subgrant at least 95 percent of the funds it receives to its local educational agencies (LEAs) for school improvement activities. In awarding such subgrants, an SEA must "give priority to the local educational agencies with the lowest-achieving schools that demonstrate — (A) the greatest need for such funds; and (B) the strongest commitment to ensuring that such funds are used to provide adequate resources to enable the lowest-achieving schools to meet the goals under school and local educational agency improvement, corrective action, and restructuring plans under section 1116." The regulatory requirements implement these provisions, defining LEAs with the "greatest need" for SIG funds and the "strongest commitment" to ensure that such funds are used to raise substantially student achievement in the persistently lowest-achieving schools in the State.

The Consolidated Appropriations Act, 2010, which was signed into law by President Obama on December 16, 2009, included two critical changes to the SIG program that apply to fiscal year (FY) 2010 SIG funds, including any FY 2009 SIG funds that SEAs, in accordance with the SIG final requirements, carry over and combine with FY 2010 SIG funds for award in the FY 2010 SIG competition. First, the Consolidated Appropriations Act, 2010 allows SEAs and LEAs to use SIG funds to serve certain "newly eligible" schools (*i.e.*, certain low-achieving schools that are not Title I schools in improvement, corrective action, or restructuring). Second, the law increases the amount that an SEA may award for each school participating in the SIG program from $500,000 annually to $2 million annually.

The final requirements for the SIG program, set forth in 75 FR 66363 (Oct. 28, 2010) (final requirements), implement both the requirements of section 1003(g) of the ESEA and the flexibilities for the SIG program provided through the Consolidated Appropriations Act, 2010. The Department issued guidance to provide assistance to SEAs, LEAs, and schools in implementing the final requirements on January 20, 2010 and updated that guidance to include addenda that were released in February, March, May, and June 2010, respectively (collectively, FY 2009 guidance).

The FY 2009 guidance focused on the implementation of the SIG program using FY 2009 funds. This guidance contains many of the same questions as the FY 2009 guidance but focuses on implementation of the SIG program using FY 2010 funds and FY 2009 carryover funds. In particular, the following questions were newly added for this guidance: A-30a, A-30b, A-30c, A-30d, A-30e, A-30f, A-30g, A-30h, A-30i, A-30j, A-30k, C-10, D-1a, E-10a, E-11a, F-7a, G-1c, G-6a, G-6b, H-4a, H-12a, H-12b, H-19a, H-21a, I-20a, I-24a, J-1, J-2, J-3, J-4, J-5, J-6, J-7, J-8, J-9, J-10, J-11, J-12, J-13, and J-14. The following questions that were included in the FY 2009 guidance have been removed: G-11, I-22a, I-22b, I-23, J-1, J-2, and J-3. The following questions that were included in the FY 2009 guidance have been modified: A-17a, A-17b, A-18, A-30, B-2, B-3, B-8, E-16, F-1, F-2,

G-1a, G-3, G-4, G-5, G-6, G-7, G-8, H-3, H-4, H-6, H-7, H-13, H-18, H-21, H-25, I-1, I-3, I-10a, I-10b, I-15, I-20, I-21, I-22, I-26, I-29, and K-4.

The Department may supplement this document with additional guidance in the future.

This guidance does not impose any requirements beyond those required to comply with applicable law or regulations. It does not create or confer any rights for or on any person. If you are interested in commenting on this guidance, please e-mail us your comments at OESEGuidanceDocument@ed.gov or write to us at the following address:

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A. DEFINITIONS

"Persistently Lowest-Achieving Schools" (Schools that an SEA Must Identify as Tier I and Tier II Schools)

A-1. What is the definition of "persistently lowest-achieving schools"?

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

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

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

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

and

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

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

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

A school that falls within the definition of (a) above is a "Tier I" school and a school that falls within the definition of (b) above is a "Tier II" school for purposes of using SIG funds under section 1003(g) of the ESEA. At its option, an SEA may identify additional schools as Tier I or Tier II schools (see A-20 through A-29).

A-2. Does a Title I high school need to meet both the requirements in paragraphs (a)(i) and (a)(ii) of the definition of "persistently lowest-achieving schools" set forth in A-1 to be identified?

No. In fact, the requirements in paragraphs (a)(i) and (a)(ii) of the definition of "persistently lowest-achieving schools" are mutually exclusive. In other words, paragraph (a)(ii) is intended to capture those Title I high schools that have a graduation rate that is less than 60 percent over a number of years that are not among the lowest-achieving Title I schools in the State in terms of the academic achievement of their students. As a result, in identifying the State's persistently lowest-achieving Title I schools, an SEA would first determine its lowest-achieving five percent of such schools, or lowest-achieving five schools, and then add to that list any Title I high schools that have a graduation rate less than 60 percent over a number of years. (See A-11 and A-17, Steps 10-11.) An SEA would apply a similar analysis to secondary schools that are eligible for, but do not receive, Title I funds. (See A-17, Steps 15-16.)

A-3. What factors must an SEA consider to identify the persistently lowest-achieving schools in the State?

To identify the persistently lowest-achieving schools in the State, an SEA must take into account both—

(a) 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

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

A-4. For purposes of identifying the persistently lowest-achieving schools in the State, what assessments does an SEA use to determine academic achievement and lack of progress?

An SEA must use the State's assessments in reading/language arts and mathematics required under section 1111(b)(3) of the ESEA. This includes the State's general assessments, alternate assessments based on alternate academic achievement standards, and, if it has them, alternate assessments based on modified academic achievement standards in those subjects.

A-5. For purposes of identifying the persistently lowest-achieving schools in a State, what is the "all students" group?

The "all students" group is those students who take the State's assessments in reading/language arts and mathematics required under section 1111(b)(3) of the ESEA—*i.e.*, students in grades 3 through 8 and high school. The "all students" group includes limited English proficient (LEP) students and students with disabilities, including students with disabilities who take an alternate assessment based on alternate academic achievement standards or modified academic achievement standards.

A-6. For purposes of identifying the persistently lowest-achieving schools in a State, which students does an SEA include to determine the percentage of students who are proficient in a school?

For purposes of identifying the persistently lowest-achieving schools in the State, an SEA may use the assessment results of all tested students in the "all students" group or the SEA may use only assessment results of tested students in the "all students" group who were enrolled in the same school for a "full academic year" as that term is defined in the State's Accountability Workbook under section 1111 of the ESEA.

A-7. In determining proficiency of the "all students" group, does an SEA include students who are above proficient?

Yes. Proficiency includes any student who is proficient or above proficient. With respect to students with disabilities who take an alternate assessment based on alternate academic achievement standards or modified academic achievement standards, an SEA would include all students who score proficient on those assessments; the caps that apply to counting proficient scores on alternate assessments for purposes of adequate yearly progress determinations do not apply to the

determination of proficiency of the "all students" group for purposes of identifying the persistently lowest-achieving schools.

A-8. For purposes of identifying the persistently lowest-achieving schools in a State, what is a secondary school?

A secondary school is a school that provides "secondary education, as determined under State law, except that the term does not include any education beyond grade 12." ESEA section 9101(38). Thus, whether a school is a secondary school is dependent on how State law defines secondary education. Depending on State law, a secondary school most certainly would be any high school or K-12 school and might include a middle school or a K-8 school if grades 6 through 8 are part of secondary education under State law. An SEA may use whatever definition of secondary school it normally uses consistent with its State law.

A-9. For purposes of identifying the persistently lowest-achieving schools in a State, what does it mean to be a secondary school "that is eligible for" Title I funds?

A secondary school is "eligible" to receive Title I funds if it is eligible to receive such funds under section 1113(a) or 1113(b) of the ESEA. In other words, a secondary school can be eligible if its poverty percentage is above the district-wide poverty average, above the appropriate grade-span poverty average, or 35 percent or more. An SEA would most likely use an LEA's ranking of its schools, by poverty, set forth in the LEA's Title I, Part A plan to determine which secondary schools are eligible for, but do not receive, Title I, Part A funds.

A-10. As used in the definition of "persistently lowest-achieving schools," how many years make up a "number of years"?

An SEA has discretion in determining how it will define a "number of years." An SEA may use as few as two. Moreover, an SEA need not define a "number of years" the same for purposes of determining whether a high school has had a graduation rate of less than 60 percent over "a number of years" as it does for purposes of considering a school's lack of progress on the State's assessments over "a number of years."

A-11. From among which sets of schools must an SEA identify the lowest-achieving five percent or the lowest-achieving five schools?

To identify the persistently lowest-achieving schools in the State, an SEA must select two sets of schools—(a) Title I schools at any grade level that are in improvement, corrective action, or restructuring as defined in section 1116 of the ESEA; and (b) secondary schools that are eligible for, but do not receive, Title I, Part A funds—and identify the lowest-achieving five percent or lowest-achieving five schools in each set, whichever is greater. For example, if a State has 2000 schools, including 400 Title I schools, 200 of which are in improvement, corrective action, or restructuring, an SEA would identify the persistently lowest-achieving five percent of those 200 Title I schools—*i.e.,* the persistently lowest-achieving ten Title I schools in improvement, corrective action, or restructuring. Similarly, if a State has 1000 schools, including 100 Title I schools, 50 of which are in improvement, corrective action, or restructuring, an SEA would identify the persistently lowest-achieving five schools of those 50 Title I schools in improvement, corrective action, or restructuring

(because five is greater than five percent of 50 schools). An SEA would do the same for the set of secondary schools that are eligible for, but do not receive, Title I, Part A funds.

Note that, in addition to the lowest-achieving five percent of schools (or lowest-achieving five schools) identified in this manner, an SEA must identify as persistently lowest-achieving schools any high schools in each set of schools that are not captured on the basis of academic achievement but that have had a graduation rate of less than 60 percent over a number of years.

A-12. May an SEA weight differently the two factors it must consider in identifying the persistently lowest-achieving schools (*i.e.*, academic achievement of the "all students" group and lack of progress on the State's assessments)?

An SEA has discretion to determine the weight it gives to these two factors in identifying the persistently lowest-achieving schools. For example, an SEA might weight them 50-50 or it might weight achievement or lack of progress more heavily. The goal is for the SEA to identify the persistently lowest-achieving schools in the State based on proficiency in reading/language arts and mathematics and lack of progress in order to best represent the persistently lowest-achieving schools in the State that will benefit most from the rigorous interventions required for those schools.

A-13. In ranking its schools on the basis of each school's academic achievement results of the "all students" group and lack of progress on the State's assessments for purposes of identifying the persistently lowest-achieving schools in the State, may an SEA give different weight to its secondary schools and its elementary schools?

An SEA has discretion to determine the proper weight to give to the academic achievement or lack of progress of secondary schools and elementary schools. The goal is for the SEA to identify, on a fair and objective basis, the persistently lowest-achieving schools in the State. If the SEA believes that there are factors that contribute to a particular category of schools—*e.g.*, secondary schools—ranking lower than the SEA believes is warranted, perhaps because it is more difficult to show progress or to demonstrate proficiency at the secondary level, the SEA may take these factors into consideration in assigning weight to secondary schools. The SEA, however, should be able to justify any differential weights it assigns.

A-14. May an SEA take into account other factors in addition to those that it must consider in identifying the persistently lowest-achieving schools?

No. For example, an SEA may not also consider attendance rates or retention rates.

A-15. How can an SEA determine academic achievement in terms of proficiency of the "all students" group on the State's reading/language arts and mathematics assessments combined to develop one list of schools that will enable it to identify the persistently lowest-achieving schools in the State?

To determine the persistently lowest-achieving schools in the State in terms of academic achievement, an SEA must rank each set of schools—*i.e.*, Title I schools in improvement, corrective action, or restructuring and secondary schools eligible for, but that do not receive, Title I funds—from highest to lowest in terms of proficiency of the "all students" group on the State's reading/language arts and mathematics assessments combined. Accordingly, the SEA must have a

way to combine different proficiency rates between reading/language arts and mathematics for each school. There are likely a number of ways an SEA may do this. Below, we give two examples.

EXAMPLE 1

Single Percentage Method

Numerator:

Step 1: Calculate the total number of proficient students in the "all students" group in reading/language arts by adding the number of proficient students in each grade tested in a school. Calculate the total number of proficient students in the "all students" group in mathematics by adding the number of proficient students in each grade tested in the school.

Step 2: Add the total number of proficient students in reading/language arts and mathematics.

Denominator:

Step 3: Calculate the total number of students in the "all students" group in the school who took the State's reading/language arts assessment and the total number of students in the "all students" group who took the State's mathematics assessment.

Step 4: Add the total number of students in the "all students" group in the school who took the State's reading/language arts assessment and the total number of students in the "all students" group who took the State's mathematics assessment.

Note: In counting the total number of students who are proficient and the total number of students assessed, include the number of proficient students with disabilities who took an alternate assessment (based on alternate academic achievement standards or modified academic achievement standards) and the total number of students with disabilities who took an alternate assessment.

Step 5: Divide the numerator by the denominator to determine the percent proficient in reading/language arts and mathematics in the school.

Step 6: Rank the schools in each relevant set of schools from highest to lowest using the percentages in Step 5.

EXAMPLE 2

Adding Ranks Method

Step 1: Calculate the percent proficient for reading/language arts for every school in the relevant set of schools using the most recent assessment data available. (Use the same data that the State reports on its report card under section 1111(h)(1)(C)(i) of the ESEA for the "all students" group.)

Step 2: Calculate the percent proficient for mathematics for every school in the relevant set of schools using the most recent assessment data available. (Use the same data that the State reports on its report card under section 1111(h)(1)(C)(i) of the ESEA for the "all students" group.)

Step 3: Rank order schools based on the percent proficient for reading/language arts from the highest percent proficient to the lowest percent proficient. The highest percent proficient would receive a rank of one.

Step 4: Rank order schools based on the percent proficient for mathematics from the highest percent proficient to the lowest percent proficient. The highest percent proficient would receive a rank of one.

Step 5: Add the numerical ranks for reading/language arts and mathematics for each school.

Step 6: Rank order schools in each set of schools based on the combined reading/language arts and mathematics ranks for each school. The school with the lowest combined rank (*e.g.*, 2, based on a rank of 1 for both reading/language arts and mathematics) would be the highest-achieving school within the set of schools and the school with the highest combined rate would be the lowest-achieving school within the set of schools.

A-16. For purposes of identifying the persistently lowest-achieving schools, how can an SEA determine whether a school has demonstrated a "lack of progress over a number of years" on the State's assessments?

An SEA has discretion in how it determines whether a school has demonstrated a "lack of progress" on the State's assessments. Below are three examples of how an SEA can determine "lack of progress." An SEA may use other reasonable approaches.

EXAMPLE 1

Lowest Achieving Over Multiple Years

An SEA repeats the steps in Example 1 or Example 2 in A-15 for two previous years for each school. Then, it selects the five percent of schools with the lowest combined percent proficient or highest numerical rank based on three years of data

to define the persistently lowest-achieving schools in the State.

This same methodology could also be applied using other numbers of years (*e.g.*, two out of the last three years; three out of the last four years, etc.).

EXAMPLE 2

Lack of Specific Progress

An SEA establishes an amount of progress below which a school would be deemed to be demonstrating a "lack of progress." For example, an SEA might determine that a school has demonstrated a lack of progress on the State's assessments if its number of non-proficient students in the "all students" group in reading/language arts and mathematics combined has not decreased by at least 10 percent over the previous two (or three) years. The SEA would apply this standard to each school in its ranking in A-15 until the SEA had identified the lowest-achieving five percent or lowest-achieving five schools in the State in each relevant set of schools. Under this example, there are only two options: a school makes progress, as defined by the SEA, or the school does not.

EXAMPLE 3

Lack of Relative Progress

An SEA repeats the steps in Example 1 in A-15 for the previous year (or other number of previous years, as the SEA determines appropriate) for each school in each set of schools and compares the results to the ranking obtained for the most recent year to obtain the difference, which determines the school's progress, or lack thereof. The SEA ranks those differences from highest to lowest. It then determines the lowest-achieving five percent or lowest-achieving five schools based on the combination of their percent proficient as well as their relative lack of progress. Under this example, two schools with similar proficiency percentages in the most recent year could rank differently depending on their relative amount of progress.

A-17. May an SEA exclude categories of schools in identifying the persistently lowest-achieving schools in the State?

Generally, no. An SEA may not exclude categories of schools in identifying the persistently lowest-achieving schools in the State, particularly if those categories would exclude whole subgroups of students. For example, it would be unacceptable for an SEA to exclude schools that are designed to serve students with disabilities or schools that serve only Native Americans. The goal of requiring an SEA to identify its persistently lowest-achieving schools is to include those schools in the State that have persistently failed to provide a quality education for their students, including schools serving special populations of students.

Within the definition of "persistently lowest-achieving schools," however, an SEA has some flexibility in identifying those schools that are the lowest-achieving and for whom the school intervention models would hold the promise of significantly improving student achievement. For example, an SEA has flexibility with respect to how it defines "lack of progress," the number of years over which lack of progress is determined, whether to include only students who attend a school for a full academic year, whether to apply an extended-year graduation rate definition, and how to weight the various elements that go into identifying the persistently lowest-achieving schools. (See A-6, A-12, A-13, and A-16.) Within the bounds of the flexibility provided, the goal is for an SEA to identify, on a fair and objective basis, the persistently lowest-achieving schools in the State.

One narrow exception to the general rule above may be a category consisting of schools specifically designed to serve over-age, under-credited students—*i.e.*, schools designed to re-engage students who have dropped out of high school and who, by definition, cannot graduate within the standard number of years. Such a category would include schools that might automatically be identified as among the persistently lowest-achieving schools by virtue of the 60 percent graduation rate prong of the definition. Within this category, an SEA may decide, on a case-by-case basis, giving careful consideration to the mission of a particular school, student performance, and the intent of the SIG final requirements, to exclude such a school from its list of persistently lowest-achieving schools.

In developing its list of persistently lowest-achieving schools, an SEA should bear in mind that the Department will make the list and the factors the SEA used to develop the list available to the public through the Department's Web site.

A-17a. What may an SEA do if the secondary schools the SEA is identifying as Tier II schools are significantly higher achieving than Title I-participating secondary schools that the SEA cannot identify as Tier I schools?

In promulgating the definition of "persistently lowest-achieving schools" in section I.A.3 of the final requirements, the Department intended to capture the lowest-achieving secondary schools in each State, including Title I-participating secondary schools (*i.e.*, Tier I schools) as well as secondary schools that are eligible for, but do not receive, Title I, Part A funds (*i.e.*, Tier II schools). With this definition, the Department believed that an SEA would identify the secondary schools with the greatest need for funds to implement one of the four school intervention models, regardless of the schools' participation in Title I.

If an SEA finds that its initial Tier II list includes secondary schools that are significantly higher achieving than many Title I-participating secondary schools that are not among the persistently lowest-achieving schools in Tier I but are nevertheless in tremendous need of the whole-school reform contemplated by the four school intervention models, the SEA has two options. First, the SEA may exercise the flexibility offered in the final requirements to identify additional Tier II schools—*i.e.*, a school that is eligible to receive Title I, Part A funds, is no higher achieving than the highest-achieving Tier II school that the SEA identified as a persistently lowest-achieving school under the definition in section I.A.3 of the final requirements, and has missed adequate yearly progress (AYP) for at least two consecutive years or is in the lowest quintile of schools in the SEA in terms of proficiency rates on the SEA's reading/language arts and mathematics assessments combined. A Title I participating secondary school in improvement, corrective action, or restructuring that is not identified as a Tier I school but is lower-achieving than the highest-achieving Tier II school would meet these criteria; thus, an SEA may add that school to its list of Tier II schools.

Second, an SEA may request a waiver of the regulatory definition of Tier II schools in section I.A.1(b) and paragraph (a)(2) in the definition of "persistently lowest-achieving schools" in section I.A.3 of the final requirements in order to include Title I-participating secondary schools that either have missed AYP for two consecutive years or are in the lowest quintile of schools in the State in terms of proficiency and are not identified as persistently lowest-achieving schools in Tier I (Tier II waiver). In effect, the Department would waive the restriction in the definition of "persistently lowest-achieving schools" that secondary schools identified under paragraph (a)(2) are schools that "do not receive Title I, Part A funds," and, thus, permit the SEA to expand the pool of secondary schools from which it selects its persistently lowest-achieving schools (*i.e.*, the lowest-achieving five percent or five schools). In other words, an SEA receiving such a waiver would be permitted to include in Tier II those Title I-participating secondary schools made eligible to receive SIG funds by the Consolidated Appropriations Act, 2010 and the Department's final SIG requirements. In requesting such a waiver, an SEA must provide data that demonstrates 1) that the SEA is including all the newly eligible schools in its pool of secondary schools from which it will identify those that are persistently lowest-achieving, and 2) that doing so results in identification of the State's lowest-achieving secondary schools. An SEA that is generating new lists of Tier I, Tier II, and Tier III schools for purposes of its FY 2010 SIG competition may request this waiver through its application for FY 2010 SIG funds. However, an SEA that received this waiver for FY 2009 and is using its FY 2009 lists of Tier I, Tier II, and Tier III schools to award FY 2010 SIG funds does not need to request this waiver again (see A-30i). (Modified for FY 2010 Guidance)

A-17b. May an SEA exclude very small schools from its list of persistently lowest-achieving schools?

The definition of "persistently lowest-achieving schools" in the final requirements presumes that an SEA will identify its lowest-achieving schools, regardless of their size. If an SEA finds, in doing so, that its list includes very small schools whose identification as persistently lowest achieving may be invalid or unreliable due to the small number of students on whom that identification is based, the SEA may request a waiver of the definition in section I.A.3 of the final requirements in order to apply a "minimum n" below which the SEA would not identify a school (n-size waiver). A "minimum n" would be based on the number of students in the "all students" group in all the grades assessed and may include only those students that have been in the school for a "full academic year" as the SEA defines that term in its State Accountability Workbook. If an SEA

requests such a waiver, we would expect the SEA's "minimum n" to be no larger than the "minimum n," if any, it is approved to use for subgroup accountability in determining AYP. Moreover, the SEA must include its "minimum n" in its definition of "persistently lowest-achieving schools" and explain why it believes excluding small schools furthers the intent and purposes of the SIG program. The SEA must include in its waiver request the name, size, and proficiency rate of each school that it proposes to exclude from its list of persistently lowest-achieving schools, and, as a condition of receiving the waiver, must post this information on its Web site along with its definition and list of persistently lowest-achieving schools. In addition, the SEA must include any schools that are excluded from Tier I or Tier II due to a "minimum-n" requirement in its list of Tier III schools, and we encourage the SEA to give priority in awarding SIG funds to LEAs that apply to serve such schools. An SEA that is generating new lists of Tier I, Tier II, and Tier III schools for purposes of its FY 2010 SIG competition may request this waiver through its application for FY 2010 SIG funds. However, an SEA that received this waiver for FY 2009 and is using its FY 2009 lists of Tier I, Tier II, and Tier III schools to award FY 2010 SIG funds does not need to request this waiver again (see A-30i). (Modified for FY 2010 Guidance)

A-17c. If an SEA does not have sufficient data to implement its definition of "persistently lowest-achieving schools" with respect to a particular school, may the SEA exclude that school from its list?

Yes. There may be factors in an SEA's definition of "persistently lowest-achieving schools" that require the SEA to have multiple years of data. For example, of its lowest-achieving schools based on proficiency, an SEA must determine which of those schools also has demonstrated a "lack of progress…over a number of years." See paragraph (b)(ii) in the definition of "persistently lowest-achieving schools" in section I.A.3 of the final requirements. If a school lacks part of the data necessary for the SEA to apply its definition to the school, for example because the school does not have any students who have attended the school for a full academic year, the SEA may exclude the school from its list of persistently lowest-achieving schools. Such a school would still be taken into consideration as part of the base on which the five percent is calculated.

A-17d. If an SEA or LEA has initiated steps to close a school, must the SEA include the school on its list of persistently lowest-achieving schools?

No. An SEA is not required to include on its list of persistently lowest-achieving schools a school that an SEA or LEA has initiated steps to close.

A-18. What is the complete sequence of steps an SEA should use to develop its final list of the persistently lowest-achieving schools in the State?

The precise sequence of steps an SEA should use to develop its final list of persistently lowest-achieving schools in the State may depend on the methods it is using for combining proficiency rates in reading/language arts and mathematics and for determining lack of progress. In general, however, an SEA should follow these steps:

Step 1: Determine all relevant definitions—*i.e.*, the definition of "secondary school," the definition of a "number of years" for purposes of determining whether a high school has a graduation rate less than 60 percent, and the definition of a "number of years" for purposes of determining "lack of progress" on the State's assessments.

Step 2: Determine the number of schools that make up five percent of schools in each of the relevant sets of schools (*i.e.*, five percent of Title I schools in improvement, corrective action, or restructuring and five percent of the secondary schools that are eligible for, but do not receive, Title I funds) (for FY 2010, see A-30d and A-30g); determine whether that number or the number five should be used to determine the lowest-achieving schools in each relevant set of schools, depending on which number is larger.

Step 3: Determine the method for calculating combined English/language arts and mathematics proficiency rates for each school (see A-15).

Step 4: Determine the method for determining "lack of progress" by the "all students" group on the State's assessments (see A-16).

Step 5: Determine the weights to be assigned to academic achievement of the "all students" group and lack of progress on the State's assessments (see A-12).

Step 6: Determine the weights to be assigned to elementary schools and secondary schools (see A-13).

Step 7: Using the process identified in Step 3, rank the Title I schools in improvement, corrective action, or restructuring from highest to lowest based on the academic achievement of the "all students" group.

Step 8: Using the process identified in Step 4, as well as the relevant weights identified in steps 5 and 6, apply the second factor—lack of progress—to the list identified in Step 7.

Step 9: After applying lack of progress, start with the school at the bottom of the list and count up to the relevant number determined in Step 2 to obtain the list of the lowest-achieving five percent (or five) Title I schools in improvement, corrective action, or restructuring (for FY 2010, see A-30h).

Step 10: Identify the Title I high schools in improvement, corrective action, or restructuring that have had a graduation rate of less than 60 percent over a number of years (as defined in Step 1) that were not captured in the list of schools identified in Step 9.

Step 11: Add the high schools identified in Step 10 to the list of schools identified in Step 9.

Step 12: Using the process identified in Step 3, rank the secondary schools that are eligible for, but do not receive, Title I funds from highest to lowest based on the academic achievement of the "all students" group.

Step 13: Using the process identified in Step 4, as well as the relevant weights identified in steps 5 and 6, apply the second factor—lack of progress—to the list identified in Step 12.

Step 14: After applying lack of progress, start with the school at the bottom of the list and count up to the relevant number determined in Step 2 to obtain the list of the lowest-achieving five percent (or five) secondary schools that are eligible for, but do not receive, Title I funds (for FY 2010, see A-30h).

Step 15: Identify the high schools that are eligible for, but do not receive, Title I funds and that have had a graduation rate of less than 60 percent over a number of years (as defined in Step 1) that were not captured in the list of schools identified in Step 14.

Step 16: Add the high schools identified in Step 15 to the list of schools identified in Step 14.

As exemplified in the table below, together, the two lists of schools resulting from Steps 11 and 16 make up the State's persistently lowest-achieving schools. The list of schools resulting from Step 11 will constitute the Tier I schools and the list of schools resulting from Step 16 will constitute the Tier II schools for purposes of using SIG funds under section 1003(g) of the ESEA. Except as explained in A-22, all Title I participating schools in improvement, corrective action, or restructuring that are not on the list resulting from Step 11 will constitute Tier III schools for purposes of using SIG funds under section 1003(g) of the ESEA.

List Resulting from Step 11 (Tier I)	**List Resulting from Step 16 (Tier II)**
Lowest-achieving five percent (or five) of Title I schools in improvement, corrective action, or restructuring, obtained by: • Ranking the Title I schools in improvement, corrective action, or restructuring from highest to lowest based on the academic achievement of the "all students" group; • Applying lack of progress to the rank order list; and • Counting up from the bottom of the list. Plus Title I high schools in improvement, corrective action, or restructuring that have had a graduation rate less than 60 percent over a number of years (to the extent not already included).	Lowest-achieving five percent (or five) of secondary schools that are eligible for, but do not receive, Title I funds, obtained by: • Ranking the secondary schools that are eligible for, but do not receive, Title I funds from highest to lowest based on the academic achievement of the "all students" group; • Applying lack of progress to the rank order list; and • Counting up from the bottom of the list. Plus High schools that are eligible for, but do not receive, Title I funds and that have had a graduation rate less than 60 percent over a number of years (to the extent not already included).

(Modified for FY 2010 Guidance)

A-19. Do provisions related to SIG funds in the Consolidated Appropriations Act, 2010 affect the definition of "persistently lowest-achieving schools" or the school intervention models?

No. The definition of "persistently lowest-achieving schools" and the school intervention models in the December 10, 2009 SIG final requirements have not changed. The provisions related to SIG

funds in the Consolidated Appropriations Act, 2010, expand the group of schools that an SEA *may* identify as Tier I, Tier II, or Tier III schools *in addition to* the schools that the SEA *must* identify. See A-20 through A-30 for additional information about the schools an SEA may identify as Tier I, Tier II, or Tier III schools under the Consolidated Appropriations Act, 2010.

"Newly Eligible Schools" Under the Consolidated Appropriations Act, 2010 (Schools that An SEA May Identify as Tier I, Tier II, or Tier III Schools)

A-20. What is a "newly eligible school," as that phrase is used in this guidance?

A "newly eligible school" is a school that was made eligible to receive SIG funds by the Consolidated Appropriations Act, 2010.

A-21. Which newly eligible schools may an SEA identify as Tier I schools?

In addition to the list of schools resulting from Step 11 in A-18, at its option, an SEA may identify as a Tier I school an elementary school that is eligible for Title I, Part A funds and that:

(A)(1) Has not made adequate yearly progress (AYP) for at least two consecutive years; or

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

(B) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(1)(i) of the definition of "persistently lowest-achieving schools" (step 9 in A-18).

A-22. Which newly eligible schools may an SEA identify as Tier II schools?

In addition to the list of schools resulting from Step 16 in A-18, at its option, an SEA may identify as a Tier II school a secondary school that is eligible for Title I, Part A funds and that:

(A)(1) Has not made AYP for at least two consecutive years; or

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

(B)(1) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(2)(i) of the definition of "persistently lowest-achieving schools" (step 14 in A-18); or

(2) Is a high school that has had a graduation rate as defined in 34 C.F.R. § 200.19(b) that is less than 60 percent over a number of years.

Note that a school that meets this definition may be a Title I school that is identified for improvement, corrective action, or restructuring but is not as low-achieving as those in Tier I.

Accordingly, if a State chooses to include the schools that meet the definition above as Tier II schools, the State cannot include them in Tier III. As a result, Tier III may not include every Title I school in improvement, corrective action, or restructuring that is not a Tier I school; rather, Tier III would include every Title I school in improvement, corrective action, or restructuring that is not a Tier I *or Tier II* school.

A-23. In determining whether a newly eligible school is no higher achieving than the highest-achieving school that the SEA has identified as a persistently lowest-achieving school in Tier I or Tier II, what does the SEA consider?

In determining whether a newly eligible school is no higher achieving than the highest-achieving school that the SEA has identified as a persistently lowest-achieving school in Tier I or Tier II, as appropriate, the SEA must consider both the absolute achievement of students in the school in terms of proficiency on the State's reading/language arts and mathematics assessments combined and the school's lack of progress, as defined by the SEA for purposes of identifying the State's persistently lowest-achieving schools.

A-24. Which newly eligible schools may be identified as Tier III schools?

In addition to the Title I schools in improvement, corrective action, or restructuring that are not Tier I (or Tier II) schools, at its option, an SEA may identify as a Tier III school a school that is eligible for Title I, Part A funds and that:

(A)(1) Has not made AYP for at least two years; or

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

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

In accordance with this definition, an SEA may not identify as a Tier III school any newly eligible school that is as low achieving as a Tier I or Tier II school or a high school that has had a graduation rate below 60 percent over a number of years.

A-25. With respect to the newly eligible schools that may be identified as Tier I, Tier II, or Tier III schools, may a school that is "eligible for Title I, Part A funds" be *either* a school that is eligible for, but does not receive, Title I, Part A funds *or* a school that is eligible for, and does receive, Title I, Part A funds?

Yes. As used in the definitions of newly eligible schools that an SEA may identify as a Tier I, Tier II, or Tier III school, a school that is "eligible for Title I, Part A funds" may be a school that is eligible for, but does not receive, Title I, Part A funds or a school that is eligible for, and does receive, Title I, Part A funds (a Title I participating school). If a provision of the final requirements applies only to a school that is eligible for, but does not receive, Title I, Part A funds, as in the definition of a school that an SEA must identify as a Tier II school, that limitation is explicitly stated. (See A-9 for a discussion of what it means for a school to be "eligible for Title I, Part A funds.")

A-26. To be identified as a Tier III school, must a newly eligible school that is not in the State's lowest quintile of performance have failed to make AYP for two consecutive years?

No. A newly eligible school may be identified as a Tier III school if it has not made AYP for at least two years, even if those two years were not consecutive. In contrast, to be identified as a Tier I or Tier II school, a newly eligible school that is not in the State's lowest quintile of performance must have failed to make AYP for at least two consecutive years (and be as low achieving as the State's other Tier I or Tier II schools, respectively).

A-27. Must an SEA identify as Tier I, Tier II, or Tier III schools any of the newly eligible schools?

No. An SEA is not obligated to identify as Tier I, Tier II, or Tier III schools, as appropriate, any of the newly eligible schools. Rather, the SEA *may*, at its option, identify as Tier I, Tier II, or Tier III schools the newly eligible schools that meet the respective requirements for those tiers. Moreover, if an SEA chooses to identify newly eligible schools at all, it has the flexibility to identify only a subset of those schools as Tier I, Tier II, and Tier III schools. For example, an SEA might choose to identify newly eligible Tier I and Tier II schools, but not newly eligible Tier III schools, or it might add to Tier III only newly eligible schools that are in the lowest decile (rather than quintile) of schools in the State based on proficiency rates.

Although an SEA is not obligated to take advantage of this new flexibility, if it does so, it may identify in each tier only the schools that meet the requirements for that tier. For example, an SEA may not identify as a Tier III school a newly eligible school that meets the requirements to be identified as a Tier I or Tier II school.

A-28. Does an SEA's decision to identify newly eligible schools as Tier I, Tier II, or Tier III schools affect the schools that it *must* identify as Tier I, Tier II, and Tier III schools?

No. Except as explained in A-22, an SEA's decision to take advantage of the flexibility to identify newly eligible schools as Tier I, Tier II, or Tier III schools does not affect the schools it *must* identify as Tier I, Tier II, and Tier III schools. Regardless of whether an SEA chooses to identify any newly eligible schools, it must identify as Tier I and Tier II schools its persistently lowest-achieving schools, and it must identify as Tier III schools Title I schools in improvement, corrective action, or restructuring that are not Tier I schools. An SEA's decision to take advantage of this new flexibility would merely result in additional schools being added to the respective tiers.

A-29. If an SEA does not identify any newly eligible schools as Tier I, Tier II, or Tier III schools, may an LEA identify these schools and apply for SIG funds to serve them?

No. The decision of whether to take advantage of the new flexibility to identify newly eligible schools as Tier I, Tier II, or Tier III schools belongs to the SEA. An LEA may apply to serve only schools that the SEA identifies as Tier I, Tier II, or Tier III schools.

A-30. If an SEA chooses to identify newly eligible schools as Tier I, Tier II, or Tier III schools, once identified, are those schools treated any differently than any other Tier I, Tier II, or Tier III schools?

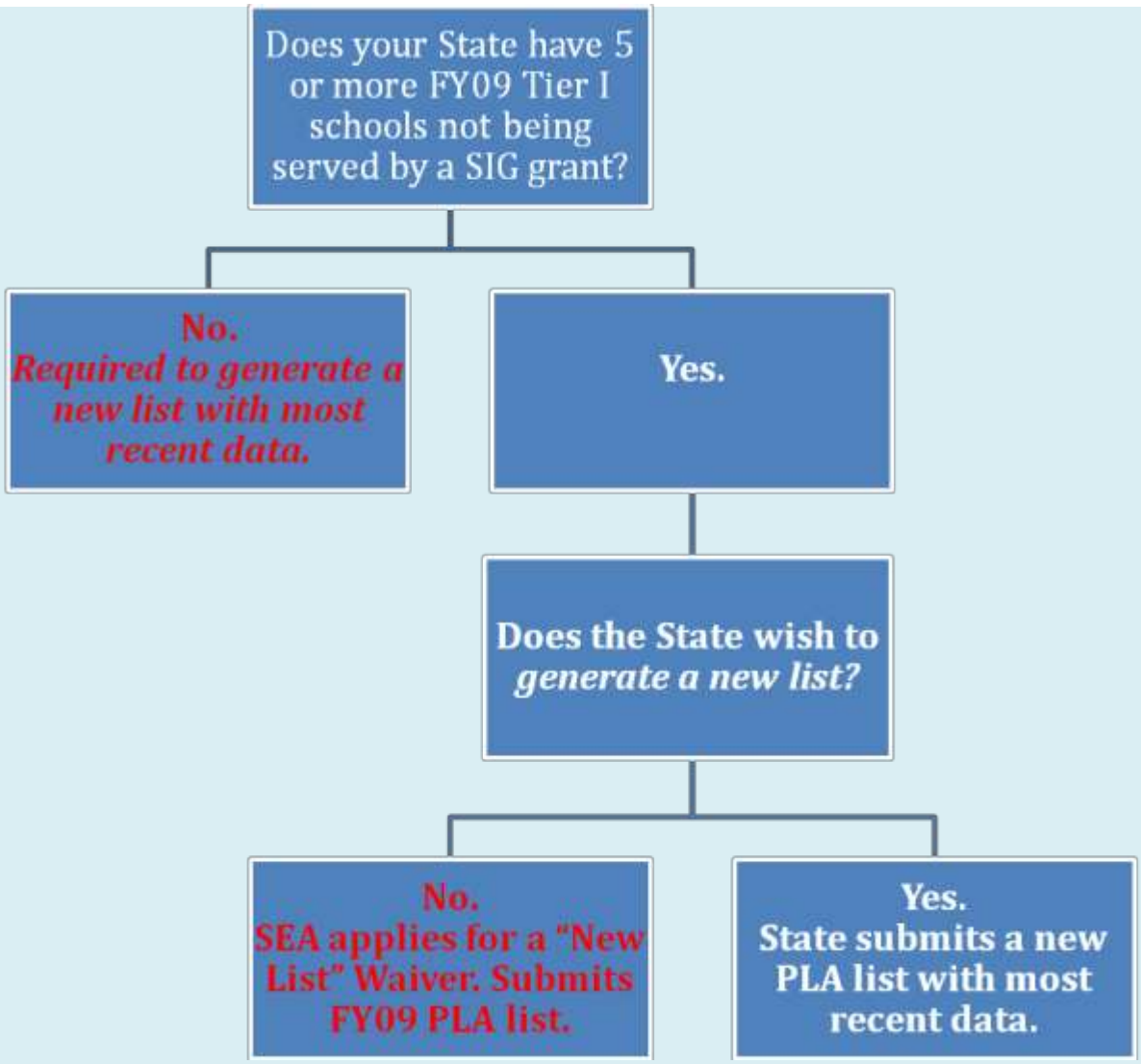
No. Once it is identified as a Tier I, Tier II, or Tier III school, a newly eligible school is treated the same as any other Tier I, Tier II, or Tier III school, respectively. Thus, for example, if a newly eligible school identified by the SEA as a Tier I school was not served with FY 2009 SIG funds, the SEA was required to carry over 25 percent of its FY 2009 funds to award along with its FY 2010 SIG funds (see I-22), unless it received a waiver of that requirement. Similarly, in order to receive SIG funds, an LEA must serve a newly eligible school identified as a Tier I school that is located within the LEA unless it establishes that it lacks capacity to do so (see H-6). In other words, all of the requirements that govern awarding funds for and serving Tier I, Tier II, and Tier III schools apply with respect to all schools in those tiers, regardless of whether they are newly eligible schools identified in those tiers at the SEA's option. (Modified for FY 2010 Guidance)

Identifying Tier I, Tier II, and Tier III Schools for Purposes of Allocating FY 2010 and FY 2009 Carryover SIG Funds

For FY 2010, each State will fall into one of three categories: (1) States that are required to generate new lists of Tier I, Tier II, and Tier III schools; (2) States that voluntarily choose to generate new lists of Tier I, Tier II, and Tier III schools; and (3) States that choose to request a waiver to retain their FY 2009 lists of schools. Most States will fall into one of the latter two categories, and will therefore have the option of retaining the lists of Tier I, Tier II, and Tier III schools that they developed for FY 2009 and limiting eligibility for their FY 2010 competitions to those schools that were not served with funds as a result of the FY 2009 competition. In other words, most States will not have to generate new lists of Tier I, Tier II, and Tier III schools for FY 2010 unless they voluntarily choose to do so.

However, given the requirement that a State identify a minimum of five Tier I schools (section I.A.3 of the final requirements), some States will be required to generate new lists of Tier I, Tier II, and Tier III schools to ensure that they are complying with this requirement. In particular, a State that has fewer than five unserved Tier I schools remaining after conducting its FY 2009 competition will be required to generate new lists of Tier I, Tier II, and Tier III schools for FY 2010.

Accordingly, the following flowchart depicts the decision points for an SEA with respect to generating new lists of Tier I, Tier II, and Tier III schools for FY 2010:



Questions A-30a through A-30k explain how the requirements set forth above are to be implemented, including how a State that does generate new lists of Tier I, Tier II, and Tier III schools, either because it chooses to do so or because it is required to do so, must develop those lists.

A-30a. In preparing for the FY 2010 SIG competition (which includes FY 2010 funds and any FY 2009 carryover funds), must an SEA generate new lists of Tier I, Tier II, and Tier III schools using the most recent achievement and graduation rate data it has available?

As noted above, for FY 2010, each State will fall into one of three categories: (1) States that are required to generate new lists of Tier I, Tier II, and Tier III schools; (2) States that voluntarily choose to generate new lists of schools; and (3) States that choose to request a waiver to retain their FY 2009 lists of schools. Although the SIG program requires an SEA to develop new lists of Tier I, Tier II, and Tier III schools, the Department is offering a waiver to enable eligible States to retain

their FY 2009 lists of schools in light of the fact that many States have several Tier I schools that remained unserved following their FY 2009 SIG competitions.

Section I.A.1 of the SIG final requirements provides that, "[t]o award School Improvement Grants to its LEAs, consistent with section 1003(g)(6) of the ESEA, an SEA must define three tiers of schools . . . ." Section II.B.10 of the SIG final requirements further provides that, "[i]n identifying Tier I and Tier II schools in a State for purposes of allocating funds appropriated for School Improvement Grants under section 1003(g) for any year subsequent to FY 2009, an SEA must exclude from consideration any school that was previously identified as a Tier I or Tier II school and in which an LEA is implementing one of the four interventions identified in these requirements using funds made available under section 1003(g) of the ESEA." Taken together, these provisions require an SEA to update its list of Tier I and Tier II schools each year, *i.e.*, to apply its definition of "persistently lowest-achieving schools" to the most recent available data and identify new lists of Tier I, Tier II, and Tier III schools each year, excluding from consideration any Tier I or Tier II school already being served with SIG funds. These requirements ensure that each SEA's list of its persistently lowest-achieving Title I schools is based on the most recent data and that those schools have an opportunity to receive SIG funds to implement one of the four school intervention models.

The Department recognizes, however, that many States have a number of unserved Tier I schools remaining on their FY 2009 lists and may wish to provide those schools another opportunity to apply for FY 2010 SIG funds and implement a school intervention model. Accordingly, States with five or more unserved Tier I schools (*i.e.*, schools that were identified as Tier I for purposes of the FY 2009 SIG competition but are not being served with FY 2009 SIG funds in the 2010–2011 school year) may apply for a waiver of the requirement to generate new lists of Tier I, Tier II, and Tier III schools (New List Waiver) (see A-30b, A-30c). Limiting this waiver to those States ensures that all States meet section I.A.3 of the SIG final requirements, which requires each SEA to identify a minimum of five Title I schools in Tier I for the FY 2010 SIG competition. For example, an SEA that identified eight schools as Tier I schools for purposes of its FY 2009 competition and awarded FY 2009 SIG funds to serve six of those schools, leaving two unfunded, would be required to generate new lists of Tier I, Tier II, and Tier III schools. On the other hand, if an SEA identified 30 schools as Tier I schools for purposes of its FY 2009 SIG competition and awarded SIG funds to serve 20 of those schools, it may request a waiver so that it does not need to generate new lists of Tier I, Tier II, and Tier III schools based on more recent data. The remaining 10 Tier I schools would be eligible under the State's FY 2010 competition for SIG funds. (New for FY 2010 Guidance)

A-30b. What *must* an SEA with *fewer than five* unserved Tier I schools from its FY 2009 competition do to identify Tier I, Tier II, and Tier III schools for its FY 2010 competition?

An SEA with fewer than five unserved Tier I schools remaining from its FY 2009 competition for SIG funds must generate new lists of Tier I, Tier II, and Tier III schools based on the most recent available achievement and graduation rate data, applying its definition of persistently lowest-achieving schools and following the same general steps that it followed to identify its lists of schools for FY 2009. (See A-18, A-30d through A-30i.) (New for FY 2010 Guidance)

A-30c. What *may* an SEA with *five or more* unserved Tier I schools from its FY 2009 competition do with respect to identifying Tier I, Tier II, and Tier III schools for its FY 2010 competition?

An SEA with five or more unserved Tier I schools from its FY 2009 competition has two options: it may request a waiver to retain its FY 2009 lists of Tier I, Tier II, and Tier III schools or it may voluntarily generate new lists of schools.

Requesting a waiver: An SEA may choose to identify as eligible to receive SIG funds through its FY 2010 competition only those Tier I, Tier II, and Tier III schools that were identified for purposes of the FY 2009 competition but are not being served with SIG funds in 2010–2011. If it takes advantage of this flexibility (by requesting the New List Waiver), it need not take any additional action to update or modify its lists of Tier I, Tier II, and Tier III schools.

Voluntarily generating new lists: Alternatively, an SEA with five or more unserved Tier I schools from its FY 2009 competition has the option to generate new lists of Tier I, Tier II, and Tier III schools based on the most recent available achievement and graduation rate data. An SEA with five or more unserved Tier I schools also might generate new lists because it wants to begin taking advantage of the flexibility to identify "newly eligible schools" (see A-20 through A-30) as Tier I or Tier II schools, and it would have to generate new lists to ensure that it is identifying the right schools as "newly eligible." If it chooses to generate new lists, the SEA would not request the new list waiver and generally would follow the same steps as would an SEA that is required to generate new lists of Tier I, Tier II, and Tier III schools. (See A-18, A-30d through A-30h.) (New for FY 2010 Guidance)

SEAs that Generate New Lists of Tier I, Tier II, and Tier III Schools (Either Voluntarily or Because They Must Do So)

A-30d. For an SEA that generates new lists of schools for its FY 2010 competition, from among which schools must the SEA identify the persistently lowest-achieving schools that comprise the core of Tier I and Tier II schools?

In general, an SEA that generates new lists of Tier I, Tier II, and Tier III schools would follow the same procedures it used in creating its FY 2009 lists of Tier I, Tier II, and Tier III schools, except that it must use the most recent data available both to identify the pool of eligible schools and to assign schools to the respective tiers. (See A-18.) In establishing the schools from which to identify the persistently lowest-achieving schools that comprise the core of Tier I and Tier II schools — *i.e.*, not including "newly eligible" schools (see A-20 through A-30), respectively, the SEA must take into account the following:

Tier I:

- The schools from which the persistently lowest-achieving schools for Tier I are identified are all the schools being served with Title I, Part A funds in the 2010–2011 school year and that are identified for improvement, corrective action, or restructuring based on the most recent available data, *i.e.*, as the result of AYP determinations based on assessments administered in the 2009–2010 school year.

- A Title I participating school that was previously identified for improvement, corrective action, or restructuring but is no longer so identified because it is implementing the waiver that permits it to "start over" in the school improvement timeline and using SIG funds to implement either the turnaround model or the restart model in the 2010–2011 school year may not be part of the pool from which Tier I persistently lowest-achieving schools are identified (*i.e.*, because the school is no longer in improvement).

Tier II:

- The schools from which the persistently lowest-achieving schools for Tier II are identified are all the secondary schools that are eligible for, but do not receive, Title I, Part A funds in 2010–2011. (See A-8, A-9.)

See A-30g for additional information on including currently served Tier I, Tier II, and Tier III schools in the pool of schools from which an SEA identifies Tier I and Tier II schools for purposes of its FY 2010 competition. (New for FY 2010 Guidance)

A-30e. For an SEA that generates new lists of schools, will the number of schools the SEA identifies as persistently lowest achieving for FY 2010 be the same as the number of schools it identified for FY 2009?

Not necessarily. The pool of schools from which an SEA identifies its persistently lowest-achieving schools in Tier I and Tier II will likely change and, as a result, the number of schools an SEA must identify as persistently lowest-achieving for the FY 2010 SIG competition may change from the number it identified for FY 2009. For example, if a State had 90 Title I schools in improvement, corrective action, or restructuring last year (*i.e.*, in the 2009-2010 school year), the SEA was required to identify the lowest-achieving five of those schools (because five is greater than five percent). If that same State now (in the 2010-2011 school year) has 120 Title I schools in improvement, corrective action, or restructuring, it must identify the lowest-achieving six of those schools (*i.e.*, five percent of 120). Similarly, if a State had 120 secondary schools that were eligible for, but not receiving, Title I funds last year, the SEA was required to identify the lowest-achieving six of those schools (*i.e.*, five percent of 120). If the same State now has 100 secondary schools that are eligible for, but not receiving, Title I funds (*e.g.*, because it is serving more secondary schools with Title I funds), it must identify the lowest-achieving five of those schools. (New for FY 2010 Guidance)

A-30f. How should an SEA that is generating new lists of Tier I, Tier II, and Tier III schools for its FY 2010 SIG competition (either voluntarily or because it must do so) take into account Tier I, Tier II, and Tier III schools that were funded through the FY 2009 competition?

An SEA that is generating new lists of Tier I, Tier II, and Tier III schools must consider two questions in regard to Tier I, Tier II, and Tier III schools that received funding through the FY 2009 SIG competition and are implementing a school intervention model in the 2010–2011 school year:

(1) whether such currently served schools must be included in the pool of schools from which the SEA identifies the bottom five percent of schools (or five schools) for Tiers I and II (see A-18, step 2); and

(2) whether such currently served schools may be counted (even though Tier I and Tier II schools already being served are not eligible for funding in FY 2010) toward the number of Tier I and Tier II schools that the SEA must identify as the bottom five percent of schools (or five schools) for the purposes of the FY 2010 competition (see A-18, steps 9 and 14).

For a discussion of the first question, see A-30g. For a discussion of the second question, see A-30h.

A-30g. Must Tier I, Tier II, and Tier III schools served with SIG funds through the FY 2009 SIG competition be included in the pool of schools from which an SEA identifies the bottom five percent of schools (or five schools) for Tier I and Tier II for the FY 2010 competition?

The answer to this question must be determined separately for currently served Tier I, Tier II, and Tier III schools. For currently served Tier I schools, inclusion in the pool for FY 2010 depends on which school intervention model the LEA is implementing in those schools. As discussed above (see A-30d), Tier I schools that are implementing the turnaround or restart model and have received a waiver to "start over" in the school improvement timeline are no longer identified for improvement and thus may not be included in the pool of schools from which the bottom five percent of schools (or five schools) are identified as Tier I schools for the FY 2010 competition. However, Tier I schools that are implementing the transformation model are not eligible for the school improvement timeline waiver, retain their school improvement status, and, therefore, must be included in the pool from which the SEA identifies Tier I schools for the FY 2010 SIG competition.[*]

Currently served Tier II schools must be included in the pool of schools from which the SEA identifies the bottom five percent of schools (or five schools) as Tier II schools for the FY 2010 SIG competition as long as they continue to be eligible for, but do not receive, Title I, Part A funds (see A-30d).

Currently served Tier III schools must be included in the pool of schools from which the SEA identifies the bottom five percent of schools (or five schools) as Tier I schools for the FY 2010 competition as long as they remain Title I schools in improvement, corrective action, or restructuring. Similarly, a currently served Tier III school must be included in the pool of schools from which the SEA identifies the bottom five percent of schools (or five schools) as Tier II schools if the Tier III school is a secondary school that is no longer receiving Title I funds, but remains eligible to receive Title I funds. If a currently served Tier III school falls in the bottom five percent of schools (or five schools) for either Tier I or Tier II for the FY 2010 competition, it would be identified as a Tier I or Tier II school, as appropriate, for purposes of FY 2010. (See H-12a.)

A-30h. May Tier I, Tier II, and Tier III schools served with SIG funds through the FY 2009 competition be counted toward the number of Tier I and Tier II schools that the

[*] If a Title I school in improvement, corrective action, or restructuring was served as a Tier II school through the "Tier II waiver," that school may be included in the pool from which Tier I schools are identified if it remains a Title I school in improvement, corrective action, or restructuring.

SEA must identify as the bottom five percent of schools (or five schools) for purposes of the FY 2010 competition?

The answer to this question depends on whether the schools being counted are currently served Tier I or Tier II schools as opposed to currently served Tier III schools.

Currently Served Tier I or Tier II Schools

In accordance with section II.B.10 of the SIG final requirements, an SEA may not count currently served Tier I and Tier II schools toward the number of Tier I and Tier II schools that it must identify for the purposes of the FY 2010 SIG competition. For example, an SEA that identified 11 Tier I schools in FY 2009 and served five of those schools (Washington, Adams, Jefferson, Madison, and Monroe) with FY 2009 SIG funds may voluntarily choose to generate new lists of Tier I, Tier II, and Tier III schools. If that SEA had an increase in the number of its Title I schools identified for improvement, corrective action, or restructuring, it must now identify as Tier I schools that are eligible for funding through the FY 2010 SIG competition more than the 11 schools it identified in FY 2009; for example, it might have to identify the lowest-achieving 12 Title I schools in improvement, corrective action, or restructuring. If any of the State's currently served Tier I schools continue to fall into the bottom five percent based on the most recent achievement data, the SEA must go further up its list to identify a total of 12 schools that are eligible for FY 2010 SIG funds, as depicted below.

12	Grant
11	Johnson
10	Lincoln
9	Buchanan
8	Pierce
7	Fillmore
6	Taylor
5	Polk
4	Tyler
3	Harrison
2	Van Buren
1	Jackson
	Madison

	Jefferson
	Adams
	Washington

Currently Served Tier III Schools

An SEA may count a currently served Tier III school toward the number of Tier I and Tier II schools that the SEA must identify for the purposes of the FY 2010 SIG competition if the currently served Tier III school falls within the bottom five percent (or five) of the pool of schools for Tier I or Tier II. (See H-12a for information on serving these schools in FY 2010.)

Note that, in addition to identifying the bottom five percent (or five) of the relevant pool of schools for Tier I and Tier II, an SEA must identify as Tier I and Tier II schools any high school within the relevant pool that has had a graduation rate below 60 percent over a number of years. (New for FY 2010 Guidance)

A-30i. Must an SEA that generates new lists of Tier I, Tier II, and Tier III schools request the Tier II waiver or n-size waiver, respectively, in its FY 2010 SIG application if it requested and received either or both of those waivers for FY 2009?

To the extent an SEA that generates new lists wishes to apply either the Tier II waiver (see A-17a) or the n-size waiver (see A-17b), it must request the waiver again. However, an SEA that does not generate new lists need not request either waiver again for FY 2010 if it received one or both waivers for FY 2009. (New for FY 2010 Guidance)

Other Changes to an SEA's Lists of Tier I, Tier II, and Tier III Schools

A-30j. May an SEA revise its definition of "persistently lowest-achieving schools" for purposes of identifying schools for its FY 2010 competition?

Yes. Any SEA may revise its definition of "persistently lowest-achieving schools" for purposes of identifying schools that are eligible for its FY 2010 competition. Such revisions might include, for example, revising the number of years over which "lack of progress" is determined or redefining the way in which the SEA combines achievement data for reading and mathematics. The revised definition must meet the requirements in Section I.A.3 of the SIG final requirements and must be approved by the Department.

An SEA that chooses to revise its definition of "persistently lowest-achieving schools" must apply the revised definition to develop new lists of Tier I, Tier II, and Tier III schools based on the most recent achievement and graduation rate data, following the steps set forth in A-18. (New for FY 2010 Guidance)

A-30k. May an SEA stop taking advantage of the flexibility to identify "newly eligible" schools?

Yes. An SEA that previously took advantage of the flexibility to identify newly eligible schools may decide it no longer wants to take advantage of this flexibility and remove those schools from its lists. An SEA may make this change to its lists of Tier I, Tier II, or Tier III schools even if it is not generating new lists of Tier I, Tier II, and Tier III schools. Note that, if an SEA does remove newly eligible schools from its list of Tier I, Tier II, and Tier III schools and, as a result, has fewer than five Tier I schools that were identified but not served with FY 2009 SIG funds, it would be required to generate new lists of Tier I, Tier II, and Tier III schools.

An SEA that did not previously take advantage of the flexibility to identify newly eligible schools and wishes to do so for purposes of identifying schools that are eligible for the FY 2010 SIG competition must generate new lists of Tier I, Tier II, and Tier III schools based on the most recent achievement and graduation rate data. (New for FY 2010 Guidance)

Increased Learning Time

A-31. What is the definition of "increased learning time"?

"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.

A-32. Does the definition of "increased learning time" include before- or after-school instructional programs?

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, although the Department encourages LEAs to closely integrate and coordinate academic work between in school and out of school. To satisfy the requirements in Section I.A.2(a)(1)(viii) of the turnaround model and Section I.A.2(d)(3)(i)(A) of the transformation model for providing increased learning time, a before- or after-school instructional program must be available to all students in the school.

A-32a. May an LEA use SIG funds to pay for the portion of a teacher's salary that is attributable to providing increased learning time beyond the regular school day, week, or year?

Yes. Both the turnaround model and the transformation model require an LEA to provide increased learning time, which is generally defined as "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; instruction in other subjects and enrichment activities; and

teachers to collaborate, plan, and engage in professional development. See sections I.A.2(a)(1)(viii), I.A.2(d)(3)(i), I.A.3 of the final requirements. Because a school must operate a schoolwide program in order to implement either of these models, the LEA must provide the school all of the non-Federal funds it would otherwise receive in the absence of the SIG funds. ESEA section 1114(a)(2)(B). These non-Federal funds include the funds necessary and sufficient to provide the school's regular instructional program—*i.e.*, the program the school provides during the regular school day, week, or year. If this requirement is met, the LEA may use SIG funds in the school to support the extra costs of providing increased learning time beyond the regular school day, week, or year. See A-32b. For example, the LEA may use SIG funds to pay the pro-rata share of a teacher's salary that is attributable to a longer school day, week, or year and is necessary to implement a turnaround or transformation model, even if the teacher is providing instruction in core academic subjects during the increased learning time.

A-32b. How may an LEA determine what costs are attributable to providing increased learning time beyond the regular school day, week, or year?

To determine what costs may be attributed to providing increased learning time beyond the regular school day, week, or year, an LEA must first define its regular school day, week, or year. An LEA might do so in any one of several ways. The LEA might determine the length of the school day, week, or year in its schools that are not implementing a turnaround or transformation model and, therefore, are not required to provide increased learning time. If all its schools are implementing a turnaround or transformation model, the LEA might determine what length of school day, week, or year is necessary to comply with State law. If State law does not require a specific minimum number of instructional hours, the LEA might determine what amount of time is necessary and sufficient to provide its regular instructional program. Then, the LEA may use SIG funds to pay for additional costs to provide increased learning time under a turnaround or transformation model over and above what it would otherwise be required to provide. If, however, the LEA provides increased learning time in all of its schools—*i.e.*, both those that receive SIG funds and those that do not—the LEA would need to support the additional costs in all schools, including SIG schools, with non-Federal funds in order to meet the requirement in section 1114(a)(2)(B) of the ESEA. See A-32a.

A-32c. May an LEA use SIG funds to offset transportation costs associated with providing increased learning time?

Generally, providing transportation to students in order for them to attend school is a regular responsibility an LEA carries out for all students and, thus, may not be paid for with Federal funds unless specifically authorized. However, an LEA may use SIG funds to cover transportation costs if the costs are directly attributable to implementation of a school intervention model, are reasonable and necessary, and exceed the costs the LEA would have incurred in the absence of its implementation of the model.

As required under the turnaround and transformation models, providing increased learning time, by definition, means using a longer school day, week, or year schedule to significantly increase the total number of school hours for instruction and teacher collaboration and making it available to all students in a school (see A-31 and A-32). If an LEA provides transportation to students in order for them to attend school, those same costs would generally be incurred to transport students even if their school day has been extended. As such, the costs of transporting those students generally may not be paid for with SIG funds. To the extent, however, that providing increased learning time

requires an LEA to incur additional costs that are directly attributable to the increased learning time and that exceed those costs that it would normally incur to provide transportation to students in order to attend school, the LEA may be able to use SIG funds to cover the incremental transportation costs, provided those costs are also reasonable and necessary to carry out one of the four school intervention models. Such costs would need to be included in the LEA's proposed SIG budget and reviewed and approved by the SEA. In addition, the LEA must keep records to demonstrate that such costs are directly attributable to its implementation of a school intervention model as well as reasonable and necessary and that it has charged only incremental transportation costs to its SIG grant.

A-32d. Must an LEA provide a minimum number of hours to meet the requirement in the turnaround and transformation models regarding providing increased learning time?

Although research supports the effectiveness of increasing learning time by a minimum of 300 hours, the final requirements do not require that an LEA implementing either the turnaround model or the transformation model necessarily provide at least 300 hours of increased learning time. An LEA has the flexibility to determine precisely how to meet the requirement to establish schedules that provide increased learning time, and should do so with an eye toward the goal of increasing learning time enough to have a meaningful impact on the academic program in which the model is being implemented.

Student growth

A-33. What is the definition of "student growth"?

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

A-34. Why is it necessary to define "student growth" for purposes of SIG grants?

In Section I.A.2(d)(1)(i)(B)(1) of the transformation model, an LEA must use rigorous, transparent, and equitable evaluation systems for teachers and principals that take into account data on student growth as a significant factor. Those systems must also take into account 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.

B. TURNAROUND MODEL

B-1. What are the required elements of a turnaround model?

A turnaround model is one in which an LEA must do the following:

(1) 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;

(2) 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;

(3) 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;

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

(5) 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;

(6) 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;

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

(8) Establish schedules and implement strategies that provide increased learning time; and

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

B-2. In addition to the required elements, what optional elements may also be a part of a turnaround model?

In addition to the required elements, an LEA implementing a turnaround model may also implement other strategies, such as a new school model or any of the required and permissible activities under the transformation intervention model described in the final requirements. It could also, for example, implement a high-quality preschool program that is designed to improve the health, social-emotional outcomes, and school readiness for high-need young children or replace a comprehensive high school with one that focuses on science, technology, engineering, and mathematics (STEM). The key is that these actions would be taken within the framework of the

turnaround model and would be in addition to, not instead of, the actions that are required as part of a turnaround model. (Modified for FY 2010 Guidance)

B-3. What is the definition of "staff" as that term is used in the discussion of a turnaround model?

As used in the discussion of a turnaround model, "staff" includes all instructional staff, but an LEA has discretion to determine whether or not "staff" also includes non-instructional staff. An LEA may decide that it is appropriate to include non-instructional staff in the definition of "staff," as all members of a school's staff contribute to the school environment and are important to the success of a turnaround model.

In determining the number of staff members that may be rehired, an LEA should count the total number of staff positions (however staff is defined) within the school in which the model is being implemented, including any positions that may be vacant at the time of the implementation. For example, if a school has a total of 100 staff positions, only 90 of which are filled at the time the model is implemented, the LEA may rehire 50 staff members; the LEA is not limited to rehiring only 45 individuals (50 percent of the filled staff positions). (See G-1c for additional information on how an LEA should determine the number of staff members that must be replaced when taking advantage of the flexibility to continue or complete interventions that have been implemented within the last two years.) (Modified for FY 2010 Guidance)

B-3a. The response to B-3 states that "staff" includes "all instructional staff." Does "all instructional staff" mean only teachers of core academic subjects or does it also include physical education teachers and teachers of other non-core academic subjects?

"All instructional staff" includes teachers of core academic subjects as well as teachers of non-core academic subjects. Section I.A.2(a)(1)(ii) of the final requirements requires an LEA to measure the effectiveness of "staff" who work within the turnaround environment. As is stated in B-3, an LEA has discretion to determine whether or not to include non-instructional staff, in addition to instructional staff, in meeting this requirement. An LEA may decide it is appropriate to include non-instructional staff in the definition of "staff" as all members of a school's staff contribute to the school environment and are important to the success of a turnaround model.

B-4. What are "locally adopted competencies"?

A "competency," which is a skill or consistent pattern of thinking, feeling, acting, or speaking that causes a person to be effective in a particular job or role, is a key predictor of how someone will perform at work. Given that every teacher brings a unique skill set to the classroom, thoughtfully developed assessments of such competencies can be used as part of a rigorous recruitment, screening, and selection process to identify educators with the unique qualities that equip them to succeed in the turnaround environment and can help ensure a strong match between teachers and particular turnaround schools. As part of a rigorous recruitment, screening and selection process, assessments of turnaround teachers' competencies can be used by the principal or district leader to distinguish between very high performers and more typical or lower-performing teachers in a turnaround setting. Although an LEA may already have and use a set of tools to screen for appropriate competencies as part of it normal hiring practices, it is important to develop a set of

competencies specifically designed to identify staff that can be effective in a turnaround situation because, in a turnaround school, failure has become an entrenched way of life for students and staff, and staff members need stronger and more consistent habits in critical areas to transform the school's wide-scale failure into learning success.

While each LEA should identify the skills and expertise needed for its local context, in addition to reviewing evidence of effectiveness in previous teaching positions (or other pre-service experience) in the form of recommendations, portfolios, or student outcomes, examples of locally adopted competencies might include acting with initiative and persistence, planning ahead, flexibility, respect for and sensitivity to norms of interaction in different situations, self-confidence, team leadership, developing others, analytical thinking, and conceptual thinking.

The value and utility of turnaround competencies for selection are dependent on the process by which an LEA or school leader or team uses them. In addition to assessing a candidate's subject knowledge and mastery of specific instructional practices that the turnaround school uses, using a robust and multi-tiered selection process that includes interviews that ask about past practice in the classroom or situational scenarios, reviewing writing samples, observing teachers in their classrooms, and asking teachers to perform job-related tasks such as presenting information to a group of parents, are all common techniques used to screen candidates against turnaround competencies.

Note that these are merely examples of a process and set of competencies an LEA might measure and use in screening and selecting staff to meet the unique needs of the schools in which it will implement a turnaround model.

B-5. Is an LEA implementing the turnaround model required to use financial incentives, increased opportunities for promotion and career growth, and more flexible conditions as strategies to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a turnaround model?

No. The specific strategies mentioned in this requirement (see B-1(3)) are merely examples of the types of strategies an LEA might use to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a school implementing the turnaround model. An LEA is not obligated to use these particular strategies, so long as it implements some strategies that are designed to recruit, place, and retain the appropriate staff.

B-6. What is job-embedded professional development?

Job-embedded professional development is professional learning that occurs at a school as educators engage in their daily work activities. It is closely connected to what teachers are asked to do in the classroom so that the skills and knowledge gained from such learning can be immediately transferred to classroom instructional practices. Job-embedded professional development is usually characterized by the following:

- It occurs on a regular basis (*e.g.*, daily or weekly);
- It is aligned with academic standards, school curricula, and school improvement goals;

- It involves educators working together collaboratively and is often facilitated by school instructional leaders or school-based professional development coaches or mentors;

- It requires active engagement rather than passive learning by participants; and

- It focuses on understanding what and how students are learning and on how to address students' learning needs, including reviewing student work and achievement data and collaboratively planning, testing, and adjusting instructional strategies, formative assessments, and materials based on such data.

Job-embedded professional development can take many forms, including, but not limited to, classroom coaching, structured common planning time, meetings with mentors, consultation with outside experts, and observations of classroom practice.

When implemented as part of a turnaround model, job-embedded professional development must be designed with school staff.

B-7. Does the requirement to implement an instructional program that is research-based and aligned (vertically and with State standards) require adoption of a new or revised instructional program?

Not necessarily. In implementing a turnaround model, an LEA must use data to identify an instructional program that is research-based and vertically aligned as well as aligned with State academic standards. If an LEA determines, based on a careful review of appropriate data, that the instructional program currently being implemented in a particular school is research-based and properly aligned, it may continue to implement that instructional program. However, the Department expects that most LEAs with Tier I or Tier II schools will need to make at least minor adjustments to the instructional programs in those schools to ensure that those programs are, in fact, research-based and properly aligned.

B-8. What are examples of social-emotional and community-oriented services that may be supported with SIG funds in a school implementing a turnaround model?

Social-emotional and community-oriented services that may be offered to students in a school implementing a turnaround model may include, but are not limited to: (a) safety programs; (b) community stability programs that reduce the mobility rate of students in the school; or (c) family and community engagement programs that support a range of activities designed to build the capacity of parents and school staff to work together to improve student academic achievement, such as a family literacy program for parents who need to improve their literacy skills in order to support their children's learning.

If funds are not reasonably available from other public or private sources to support the planning and implementation of the services and the LEA has engaged in a comprehensive needs assessment, SIG funds might be used to hire a coordinator or to contract with an organization to facilitate the delivery of health, nutrition, and social services to the school's students in partnership with local service providers. SIG funds also might be used for (1) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of students, and (2) as a last resort when funds are not reasonably available

from other public or private sources, the provision of basic medical equipment, such as eyeglasses and hearing aids.

An LEA should examine the needs of students in the turnaround school to determine which social-emotional and community-oriented services will be appropriate and useful under the circumstances. Further, like all other activities supported with SIG funds, any services provided must address the needs identified by the needs assessment the LEA conducted prior to selecting the turnaround model for the school and must be reasonable and necessary. (See I-30.) (Modified for FY 2010 Guidance)

B-9. May an LEA omit any of the actions outlined in the final requirements and implement its own version of a turnaround model?

No. An LEA implementing a turnaround model in one or more of its schools must take all of the actions required by the final requirements. As discussed in B-2, an LEA may take additional actions to supplement those that are required as part of a turnaround model, but it may not implement its own version of a turnaround model that does not include all of the elements required by the final requirements. Thus, an LEA could not, for example, convert a turnaround school to a magnet school without also taking the other actions specifically required as part of a turnaround model.

C. RESTART MODEL

C-1. What is the definition of a 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 restart model must enroll, within the grades it serves, any former student who wishes to attend the school (see C-6).

C-2. What is a CMO?

A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools.

C-3. What is an EMO?

An EMO is a for-profit or non-profit organization that provides "whole-school operation" services to an LEA.

C-4. Prior to submitting its application for SIG funds, must an LEA know the particular EMO or CMO with which it would contract to restart a school?

No. Prior to submitting its application, an LEA need not know the particular EMO or CMO with which it would contract to restart a school, but it should at least have a pool of potential partners that have expressed an interest in and have exhibited an ability to restart the school in which the LEA proposes to implement the restart model. An LEA does not need to enter into a contract prior to receiving its SIG funds, but it must be able to provide enough information in its application for the SEA to be confident that, if awarded SIG funds, the LEA would in fact enter into a contract with a CMO or EMO to implement the restart model.

C-5. What is the purpose of the "rigorous review process" used for selecting a charter school operator, a CMO, or an EMO?

The "rigorous review process" permits an LEA to examine a prospective restart operator's reform plans and strategies. It helps prevent an operator from assuming control of a school without having a meaningful plan for turning it around. The purpose of the rigorous review process is to provide an LEA with an opportunity to ensure that the operator will use this model to make meaningful changes in a school. Through the rigorous review process, an LEA might, for example, require a prospective operator to demonstrate that its strategies are research-based and that it has the capacity to implement the strategies it is proposing.

C-6. Which students must be permitted to enroll in a school implementing a restart model?

A restart school must enroll, within the grades it serves, all former students who wish to attend the school. The purpose of this requirement is to ensure that restarting the school benefits the population of students who would be served by the school in the absence of "restarting" the school. Accordingly, the obligation to enroll any former student who wishes to attend the school includes the obligation to enroll a student who did not actually previously attend the school — for example, because the student was previously enrolled in grade 3 but the school serves only grades 4 through 6 — but who would now be able to enroll in the school were it not implementing the restart model. If the restart school no longer serves a particular grade or grades that previously had been served by the school, the restart school is not obligated to enroll a student in the grade or grades that are no longer served.

C-6a. May an EMO or CMO with which an LEA contracts to implement a restart model require students or parents to agree to certain conditions in order to attend the school?

Yes, under the restart model, a provider may require all former students who wish to attend the restart school to sign student or parent/student agreements covering student behavior, attendance, or other commitments related to academic performance. In other words, a decision by a student or parent not to sign such an agreement amounts to an indication that the student does not wish to attend the school implementing the restart model. A provider may not, however, require students to meet, for example, certain academic standards prior to enrolling in the school.

C-7. May a restart school serve fewer grades than were previously served by the school in which the model is being implemented?

Yes. An LEA has flexibility to work with providers to develop the appropriate sequence and timetable for a restart partnership. Thus, for example, an LEA could allow a restart operator to take over one grade in the school at a time.

If an LEA allows a restart operator to serve only some of the grades that were previously served by the school in which the model is being implemented, the LEA must ensure that the SIG funds it receives for the school are used only for the grades being served by the restart operator, unless the LEA is implementing one of the other SIG models with respect to the other grades served by the school. For example, if the school in question previously served grades K-6 and the LEA allows a

restart operator to take over the school only with respect to grades K-3, the LEA could use SIG funds to serve the students in grades 4-6 if it implements a turnaround model or school closure, consistent with the final requirements, with respect to those grades.

C-8. May a school implementing a restart model implement any of the required or permissible activities of a turnaround model or a transformation model?

Yes. A school implementing a restart model may implement activities described in the final requirements with respect to other models. Indeed, a restart operator has considerable flexibility not only with respect to the school improvement activities it will undertake, but also with respect to the type of school program it will offer. The restart model is specifically intended to give operators flexibility and freedom to implement their own reform plans and strategies.

C-9. If an LEA implements a restart model, must its contract with the charter school operator, CMO, or EMO hold the charter school operator, CMO, or EMO accountable for meeting the final requirements?

Yes. If an LEA implements a restart model in a Tier I or Tier II school, the LEA must include in its contract or agreement terms and provisions to hold the charter school operator, CMO, or EMO accountable for complying with the final requirements. An LEA should bear this accountability requirement in mind at the time of contracting with the charter school operator, CMO, or EMO, and should consider how best to reflect it in the contract or agreement.

C-10. May an LEA use SIG funds to pay a fee to a CMO or EMO to operate a restart model?

Yes, but only to the extent the fee is reasonable and necessary to implement the restart model. An LEA, thus, has the responsibility, in entering into a contract with a CMO or EMO, to ensure that any fee that is part of the contract is reasonable and necessary. *See* Office of Management and Budget Circular A-87, Attachment A, C.1.a (to be allowable under a Federal grant, costs must be "necessary and reasonable for proper and efficient performance and administration of [the Federal grant]"). In making this determination, the LEA must ensure that there is a direct relationship between the fee and the services that the CMO or EMO will provide using SIG funds and that those services are necessary to implement the SIG model in the school being restarted. It may not be reasonable, for example, for a CMO or EMO to charge a flat percentage of the SIG funds available, irrespective of the services to be provided, particularly in light of the significant amount of SIG funds that would be available to a school for three years. For example, if a CMO or EMO normally charges a fee of five percent of gross receipts to operate a school, it may not be reasonable to calculate that percentage on the additional $6 million in SIG funds that could be available, absent a very strong demonstration that its costs for providing services increase commensurately with the large amount of SIG funds available. Moreover, the LEA must be able to demonstrate, as part of its commitment to obtain SIG funds, that it can sustain the services of the CMO or EMO and any attendant fee after the SIG funds are no longer available (Sections I.A.4(a)(vi) and II.A.2(a)(iv)) and include a budget for each school it intends to serve that identifies any fee (Section II.A.2(a)(vi)).

In addition, an SEA has the responsibility, in reviewing and approving an LEA's application to implement the restart model in one or more of its Tier I or Tier II schools, to consider the LEA's capacity to implement the model, including the reasonableness of its SIG budget and its ability to

sustain the model after SIG funds are no longer available, and may approve the LEA's application only if the SEA determines that the LEA can implement fully and effectively the model. See Sections I.A.4(b) and II.B.2(b)(ii) and (iv). (New for FY 2010 Guidance)

D. SCHOOL CLOSURE

D-1. What is 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.

D-1a. How important is it for an LEA to engage families and the community in the LEA's decision to close a persistently lowest-achieving school?

It is extremely important to engage families and the school community early in the process of selecting the appropriate school improvement model to implement in a school (see H-4a), but doing so is particularly important when considering school closure.

It is critical that LEA officials engage in an open dialogue with families and the school community early in the closure process to ensure that they understand the data and reasons supporting the decision to close, have a voice in exploring quality options, and help plan a smooth transition for students and their families at the receiving schools. (New for FY 2010 Guidance)

D-2. What costs associated with closing a school can be paid for with SIG funds?

An LEA may use SIG funds to pay certain reasonable and necessary costs associated with closing a Tier I or Tier II school, such as costs related to parent and community outreach, including, but not limited to, press releases, newsletters, newspaper announcements, hotlines, direct mail notices, or meetings regarding the school closure; services to help parents and students transition to a new school; or orientation activities, including open houses, that are specifically designed for students attending a new school after their prior school closes. Other costs, such as revising transportation routes, transporting students to their new school, or making class assignments in a new school, are regular responsibilities an LEA carries out for all students and generally may not be paid for with SIG funds. However, an LEA may use SIG funds to cover these types of costs associated with its general responsibilities if the costs are directly attributable to the school closure and exceed the costs the LEA would have incurred in the absence of the closure.

D-3. May SIG funds be used in the school that is receiving students who previously attended a school that is subject to closure in order to cover the costs associated with accommodating those students?

No. In general, the costs a receiving school will incur to accommodate students who are moved from a closed school are costs that an LEA is expected to cover, and may not be paid for with SIG funds. However, to the extent a receiving school is a Title I school that increases its population of children from low-income families, the school should receive additional Title I, Part A funds through the Title I, Part A funding formula, and those Title I, Part A funds could be used to cover

the educational costs for these new students. If the school is not currently a Title I school, the addition of children from low-income families from a closed school might make it an eligible school.

D-4. Is the portion of an LEA's SIG subgrant that is to be used to implement a school closure renewable?

Generally, no. The portion of an LEA's SIG subgrant for a school that is subject to closure is limited to the time necessary to close the school — usually one year or less. As such, the funds allocated for a school closure would not be subject to renewal.

D-5. How can an LEA determine whether a higher-achieving school is within reasonable proximity to a closed school?

The school to which students who previously attended a closed school are sent should be located "within reasonable proximity" to the closed school. An LEA has discretion to determine which schools are located within a reasonable proximity to a closed school. A distance that is considered to be within a "reasonable proximity" in one LEA may not be within a "reasonable proximity" in another LEA, depending on the nature of the community. In making this determination, an LEA should consider whether students who would be required to attend a new school because of a closure would be unduly inconvenienced by having to travel to the new location. An LEA should also consider whether the burden on students could be eased by designating multiple schools as receiving schools.

An LEA should not eliminate school closure as an option simply because the higher-achieving schools that could be receiving schools are located at some distance from the closed school, so long as the distance is not unreasonable. Indeed, it is preferable for an LEA to send students who previously attended a closed school to a higher-achieving school that is located at some distance from, but still within reasonable proximity to, the closed school than to send those students to a lower-performing school that is geographically closer to the closed school. Moreover, an LEA should consider allowing parents to choose from among multiple higher-achieving schools, at least one of which is located within reasonable proximity to the closed school. By providing multiple school options, a parent could decide, for example, that it is worth having his or her child travel a longer distance in order to attend a higher-achieving school. Ultimately, the LEA's goal should be to ensure that students who previously attended a closed school are able to enroll in the highest-performing school that can reasonably be offered as an alternative to the closed school.

D-6. In what kinds of schools may students who previously attended a closed school enroll?

The higher-achieving schools in which students from a closed school may enroll may include any public school with the appropriate grade ranges, including public charter schools and new schools for which achievement data are not yet available. Note that a new school for which achievement data are not yet available may be a receiving school even though, as a new school, it lacks a history of being a "higher-achieving" school.

E. TRANSFORMATION MODEL

E-1. With respect to elements of the transformation model that are the same as elements of the turnaround model, do the definitions and other guidance that apply to those elements as they relate to the turnaround model also apply to those elements as they relate to the transformation model?

Yes. Thus, for example, the strategies that are used to recruit, place, and retain staff with the skills necessary to meet the needs of students in a turnaround model may be the same strategies that are used to recruit, place, and retain staff with the skills necessary to meet the needs of students in a transformation model. For questions about any terms or strategies that appear in both the transformation model and the turnaround model, refer to the turnaround model section of this guidance.

E-2. Which activities related to developing and increasing teacher and school leader effectiveness are required for an LEA implementing a transformation model?

An LEA implementing a transformation model must:

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

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

(a) Take into account data on student growth 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; and

(b) Are designed and developed with teacher and principal involvement;

(3) 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;

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

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

E-3. Must the principal and teachers involved in the development and design of the evaluation system be the principal and teachers in the school in which the transformation model is being implemented?

No. The requirement for teacher and principal evaluation systems that "are designed and developed with teacher and principal involvement" refers more generally to involvement by teachers and principals within the LEA using such systems, and may or may not include teachers and principals in a school implementing the transformation model.

E-4. Under the final requirements, an LEA implementing the transformation model must remove staff "who, after ample opportunities have been provided for them to improve their professional practice, have not done so." Does an LEA have discretion to determine the appropriate number of such opportunities that must be provided and what are some examples of such "opportunities" to improve?

In general, LEAs have flexibility to determine both the type and number of opportunities for staff to improve their professional practice before they are removed from a school implementing the transformation model. Examples of such opportunities include professional development in such areas as differentiated instruction and using data to improve instruction, mentoring or partnering with a master teacher, or increased time for collaboration designed to improve instruction.

E-5. In addition to the required activities, what other activities related to developing and increasing teacher and school leader effectiveness may an LEA undertake as part of its implementation of a transformation model?

In addition to the required activities for a transformation model, an LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as:

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

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

(3) 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.

LEAs also have flexibility to develop and implement their own strategies, as part of their efforts to successfully implement the transformation model, to increase the effectiveness of teachers and school leaders. Any such strategies must be in addition to those that are required as part of this model.

E-6. How does the optional activity of "providing additional compensation to attract and retain" certain staff differ from the requirement to implement strategies designed to recruit, place, and retain certain staff?

There are a wide range of compensation-based incentives that an LEA might use as part of a transformation model. Such incentives are just one example of strategies that might be adopted to recruit, place, and retain staff with the skills needed to implement the transformation model. The

more specific emphasis on additional compensation in the permissible strategies was intended to encourage LEAs to think more broadly about how additional compensation can contribute to teacher effectiveness.

E-7. Which activities related to comprehensive instructional reform strategies are required as part of the implementation of a transformation model?

An LEA implementing a transformation model must:

(1) 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

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

E-8. In addition to the required activities, what other activities related to comprehensive instructional reform strategies may an LEA undertake as part of its implementation of a transformation model?

In addition to the required activities for a transformation model, an LEA may also implement other comprehensive instructional reform strategies, such as:

(1) 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;

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

(3) 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;

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

(5) In secondary schools—

(a) Increasing rigor by offering opportunities for students to enroll in advanced coursework, 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;

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

(c) 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

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

E-9. What activities related to increasing learning time and creating community-oriented schools are required for implementation of a transformation model?

An LEA implementing a transformation model must:

(1) Establish schedules and strategies that provide increased learning time; and

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

E-10. What is meant by the phrase "family and community engagement" and what are some examples of ongoing mechanisms for family and community engagement?

In general, family and community engagement means strategies to increase the involvement and contributions, in both school-based and home-based settings, of parents and community partners that are designed to support classroom instruction and increase student achievement. Examples of mechanisms that can encourage family and community engagement include the establishment of organized parent groups, holding public meetings involving parents and community members to review school performance and help develop school improvement plans, using surveys to gauge parent and community satisfaction and support for local public schools, implementing complaint procedures for families, coordinating with local social and health service providers to help meet family needs, and parent education classes (including GED, adult literacy, and ESL programs).

E-10a. How should an LEA design mechanisms to support family and community engagement?

To develop mechanisms to support family and community engagement, an LEA may conduct a community-wide assessment to identify the major factors that significantly affect the academic achievement of students in the school, including an inventory of the resources in the community and the school that could be aligned, integrated, and coordinated to address these challenges. An LEA should try to ensure that it aligns the family and community engagement programs it implements in the elementary and secondary schools in which it is implementing the transformation model to support common goals for students over time and for the community as a whole. (New for FY 2010 Guidance)

E-11. In addition to the required activities, what other activities related to increasing learning time and creating community-oriented schools may an LEA undertake as part of its implementation of a transformation model?

In addition to the required activities for a transformation model, an LEA may also implement other strategies to extend learning time and create community-oriented schools, such as:

(1) 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;

(2) 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;

(3) 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

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

E-11a. What are examples of services an LEA might provide to create safe school environments that meet students' social, emotional, and health needs?

Services that help provide a safe school environment that meets students' social, emotional, and health needs may include, but are not limited to: (a) safety programs; (b) community stability programs that reduce the mobility rate of students in the school; or (c) family and community engagement programs that support a range of activities designed to build the capacity of parents and school staff to work together to improve student academic achievement, such as a family literacy program for parents who need to improve their literacy skills in order to support their children's learning. (New for FY 2010 Guidance)

E-12. How does the optional activity of extending or restructuring the school day to add time for strategies that build relationships between students, faculty, and other school staff differ from the requirement to provide increased learning time?

Extra time or opportunities for teachers and other school staff to create and build relationships with students can provide the encouragement and incentive that many students need to work hard and stay in school. Such opportunities may be created through a wide variety of extra-curricular activities as well as structural changes, such as dividing large incoming classes into smaller theme-based teams with individual advisers. However, such activities do not directly lead to increased learning time, which is more closely focused on increasing the number of instructional minutes in the school day or days in the school year.

E-13. What activities related to providing operational flexibility and sustained support are required for implementation of a transformation model?

An LEA implementing a transformation model must:

(1) 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

(2) 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).

E-14. Must an LEA implementing the transformation model in a school give the school operational flexibility in the specific areas of staffing, calendars/time, and budgeting?

No. The areas of operational flexibility mentioned in this requirement are merely examples of the types of operational flexibility an LEA might give to a school implementing the transformation model. An LEA is not obligated to give a school implementing the transformation model operational flexibility in these particular areas, so long as it provides the school sufficient operational flexibility to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates.

E-15. In addition to the required activities, what other activities related to providing operational flexibility and sustained support may an LEA undertake as part of its implementation of a transformation model?

In addition to the required activities for a transformation model, an LEA may also implement other strategies to provide operational flexibility and sustained support, such as:

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

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

E-16. In implementing the transformation model in an eligible school, may an LEA gather data during the first year of SIG funding on student growth, multiple observation-based assessments of performance, and ongoing collections of professional practice reflective of student achievement, and then remove staff members who have not improved their professional practice at the end of that first year?

Yes. Although we expect an LEA that receives FY 2010 SIG funds and/or FY 2009 carryover SIG funds and decides to implement the transformation model in a Tier I or Tier II school to implement that model fully at the start of the 2011–2012 school year, we recognize that certain components of the model may need to be implemented later in that process. For example, because an LEA must design and develop a rigorous, transparent, and equitable staff evaluation system with the involvement of teachers and principals, implement that system, and then provide staff with ample opportunities to improve their practices, the LEA may not be able to remove staff members who have not improved their professional practices until later in the implementation process. (See E-3, E-4, and F-2.) (Modified for FY 2010 Guidance)

E-17. May an LEA implement the transformation model in a high school that has grades 9-12 by assigning the current principal to grades 10-12 and hiring a new principal to lead a 9th-grade academy?

No. The final requirements for the SIG program are intended to support interventions designed to turn around an entire school (or, in the case of the school closure model, provide better educational options to all students in a Tier I or Tier II school). Removing a single grade from a Tier II high

school to create a new school for that grade as part of a strategy to improve the performance of feeder schools would not meet this requirement for whole-school intervention. Similarly, to meet the requirement that a principal be replaced, the new principal must serve all grades in a school, not just one particular grade.

F. CROSS-CUTTING ISSUES

F-1. How may an LEA implement the turnaround, school closure, restart, or transformation intervention models in a Tier I school operating a targeted assistance program?

The Secretary is inviting requests for waivers to enable a Tier I or Tier II Title I participating school operating a targeted assistance program to operate a schoolwide program so it can implement a turnaround, restart, school closure, or transformation model, each of which impacts the entire educational program of the school in which it is implemented. Such a waiver is necessary because a school operating a targeted assistance program may only provide Title I services to students who are failing, or most at risk of failing, to meet a State's student academic achievement standards; it may not provide Title I services for the school as a whole. To the extent that the percentage of students from low-income families attending a Tier I school operating a targeted assistance program is at or above 40 percent, a waiver is not needed, as the school already meets the statutory poverty threshold for operating a schoolwide program. Further, although the decision to operate a schoolwide program is typically made by the school in consultation with the LEA, an LEA may require a Tier I or Tier II Title I school to operate a schoolwide program in order to implement one of the intervention models, consistent with the overall goal of the SIG program.

A Tier I or Tier II Title I participating school in which an LEA implements a waiver to enable the school to operate a schoolwide program or a Tier I or Tier II Title I participating school that is operating a schoolwide program for the first time, but not through the implementation of a waiver (*i.e.*, because it meets the 40 percent poverty threshold), must meet all the programmatic requirements of section 1114 of the ESEA. However, because the provisions of section 1114 and the SIG intervention models are intended to upgrade the instructional program of an entire school, simply by implementing one of the intervention models, an LEA would likely be complying with most, if not all, of the requirements for a schoolwide program. Further, the fact that a school is implementing one of the models is sufficient to enable an LEA to make a determination that a school needs less than a full year to develop its schoolwide plan. Once a school begins implementing a waiver to operate a schoolwide program, it may continue to operate the schoolwide program as long at it so chooses without needing additional waivers. (Modified for FY 2010 Guidance)

F-2. What is the timeline for implementing an intervention model in a Tier I or Tier II school using FY 2010 and/or FY 2009 carryover SIG funds?

The Department expects that an LEA will use FY 2010 and/or FY 2009 carryover SIG funds to fully implement school intervention models in its Tier I and/or Tier II schools by the start of the 2011–2012 school year. The Department recognizes, however, that certain model components, such as job-embedded professional development or identifying and rewarding teachers and principals who have increased student achievement and high school graduation rates through effective implementation of a model, may occur later in the process of implementing a model.

Moreover, as explained further in Section J of this Guidance, an LEA may use FY 2010 and/or FY 2009 carryover SIG funds for pre-implementation activities prior to fully implementing a model by the start of the 2011–2012 school year. (Modified for FY 2010 Guidance)

F-3. What requirements that apply to schools receiving Title I, Part A funds apply to schools that receive SIG funds?

Schools receiving SIG funds under section 1003(g) that also receive funds under Title I, Part A are Title I schools and must comply with all Title I requirements, as applicable. This would include, for example, the requirements in section 1116, including the requirements regarding school improvement plans, except to the extent the LEA implements a waiver enabling Tier I schools implementing a turnaround or restart model to start over in the school improvement timeline.

A non-Title I school that receives SIG funds must comply only with the requirements of section 1003(g), the final requirements, and the conditions of any waiver it implements related to its SIG funds.

F-4. Must SIG funds supplement, and not supplant, non-Federal funds a school would otherwise receive?

Essentially, yes. Two provisions in Title I of the ESEA require a school receiving Title I funds to use those funds to supplement, and not supplant, State and local funds that the school would receive in the absence of Title I funds: section 1114(a)(2)(B) and section 1120A(b) of the ESEA. As discussed further below, the two provisions operate slightly differently, particularly with respect to their effect on SIG funds. However, in combination with other statutory requirements, they effectively ensure the supplemental use of SIG funds.

Under section 1114(a)(2)(B), if an LEA has a school operating a schoolwide program, the LEA may use "funds available to carry out this section" only to supplement the amount of non-Federal funds that the school would otherwise have received if it were not operating a schoolwide program, including those funds necessary to provide services required by law for students with disabilities and LEP students. "[F]unds available to carry out this section" include Title I, Part A funds, other Federal education funds, and SIG funds. Thus, an LEA must provide a Title I school operating a schoolwide program all of the non-Federal funds the school would have received were it not a schoolwide school, and SIG funds, like Title I, Part A and other Federal education funds, must supplement those non-Federal funds. The Department believes that the great majority of schools receiving SIG funds, particularly Tier I schools, will be Title I schools operating schoolwide programs and, thus, will be covered by section 1114(a)(2)(B). Note, however, that the school does not need to demonstrate that SIG funds are used only for activities that supplement those the school would otherwise provide with non-Federal funds. (ESEA section 1114(a)(2)(A)(ii).)

The situation is somewhat different for a Title I school operating a targeted assistance program with SIG funds—*i.e.*, a Tier III school that does not implement one of the four school intervention models. Under section 1120A(b), if an LEA has a school operating a targeted assistance program, the LEA must ensure that the Title I, Part A funds the school receives are used only for activities that supplement those that would be available from non-Federal funds for Title I participating students in the absence of the Title I, Part A funds. In other words, the focus of section 1120A(b) is on ensuring the supplemental nature of the activities funded or services provided with Title I, Part A

funds. The supplement not supplant requirement in section 1120A(b) does not apply to SIG funds because they are not funds available under Part A of Title I. However, there are two ways that SIG funds would be protected from supplanting when used in a Title I school operating a targeted assistance program. First, an LEA seeking to implement a school intervention model in a Title I targeted assistance school that does not meet the 40 percent poverty threshold for a schoolwide program would be required to seek a waiver of that threshold in order to convert the school to a schoolwide program (see G-3); accordingly, that school would then be covered by section 1114(a)(2)(B). Second, an LEA is obligated to ensure that all of its Title I schools, including those operating a targeted assistance program, are comparable to its non-Title I schools in accordance with section 1120A(c) of the ESEA.

Finally, under section II.A.6 of the final requirements, an LEA that receives SIG funds to serve one or more Tier I, Tier II, or Tier III schools that do not receive Title I, Part A funds must ensure that each such school receives all of the State and local funds it would have received in the absence of the SIG funds. In other words, this requirement operates the same as the supplement not supplant requirement in section 1114(a)(2)(B) of the ESEA.

F-5. What action must an LEA take if it receives SIG funds to implement one of the four models in a particular school and subsequently is unable to implement the model in that school?

An LEA that receives SIG funds to implement an intervention model in a particular school may subsequently determine that it is unable to implement the model in that school, for example, because it is unable to hire a principal to implement a turnaround model or is unable to contract with a CMO or an EMO to implement a restart model. If that happens, the LEA must amend its application indicating which other model it will implement in that school. In addition, the SEA must post the final amended application on its Web site (see I-6).

F-6. May an LEA use SIG funds for general district-level improvement activities?

An LEA may use SIG funds to pay for district-level activities to support implementation of one of the four school intervention models in each Tier I and Tier II school it commits to serve and to support other school improvement strategies in the Tier III schools it commits to serve. For example, an LEA might hire a district-level turnaround specialist to establish an "early warning system" designed to identify students in Tier I or Tier II schools who may be at risk of failing to achieve high standards or graduate, or to support implementation of a turnaround model. However, an LEA may not use SIG funds to support district-level activities for schools that are not receiving SIG funds.

F-7. How can an LEA ensure that it is able to implement fully and effectively all required components of a selected school intervention model, given that some components may be affected by collective bargaining agreements or other contracts?

Some of the required components of the intervention models may be affected by collective bargaining agreements or other contracts. For example, a collective bargaining agreement may include provisions regarding systems that may be used to evaluate teachers, professional development requirements, or strategies that may be used to retain staff. Because such provisions may impact an LEA's ability to implement the intervention models, effective implementation is

dependent on the close collaboration of LEA and school administrators, teachers, and other partners, as appropriate. The Department encourages such collaboration with respect to all model components. The Department also recognizes that, beyond collaboration, full and effective implementation of a selected model may require negotiation with teachers' unions. The Department encourages LEAs to involve teachers' unions early in the process of implementing the final requirements to ensure that the LEA can implement fully and effectively the selected intervention model in each Tier I and Tier II school it commits to serve.

In addition to collective bargaining agreements or teacher contracts, other types of agreements may impact an LEA's ability to implement fully and effectively one or more of the school intervention models. For example, if an LEA contracts with an outside provider to provide certain services that are necessary for full implementation of a model (*e.g.*, a contract to provide community-oriented services and supports as required for the turnaround model or a contract to provide ongoing mechanisms for family and community engagement as required by the transformation model), that contract will likely impact how the model is implemented. Although an LEA may outsource the implementation of some components of a selected intervention model in this manner, ultimately, the LEA is responsible for ensuring that the model is implemented fully and effectively. Accordingly, the LEA should include in any contracts with outside providers terms or provisions that will enable the LEA to ensure full and effective implementation of the model.

F-7a. In implementing a school intervention model, must an LEA comply with State and local laws and agreements, including collective bargaining agreements?

Yes. Nothing in the SIG final requirements gives an LEA the authority to take action it is not otherwise permitted to take. Accordingly, an LEA must implement the school intervention models in a manner that complies with all governing laws, regulations, and agreements, which includes providing the rights, remedies, and procedures afforded to LEA employees under existing collective bargaining agreements. For example, in many States, an LEA has an obligation to bargain with its union over issues that are affected by elements of the school intervention models before those elements may be implemented. Some State tenure laws also establish processes with which an LEA must comply before removing staff, which may impact an LEA's ability to implement the models. At the same time, however, an LEA may not fail to implement specific components of a school intervention model because they conflict with one or more of those rights, remedies, or procedures. For example, under the transformation model, an LEA must implement a teacher evaluation system that includes student growth as a significant factor; an LEA would not be exempt from this requirement because its collective bargaining agreement prohibits teacher evaluation based on student achievement. Therefore, as discussed in F-7, an LEA that has such a collective bargaining agreement and wishes to apply for SIG funds to implement a transformation model must negotiate with its collective bargaining unit to modify the collective bargaining agreement in a manner that enables the LEA to comply with the SIG final requirements without violating the agreement. If an LEA cannot resolve the conflict in a way that permits it to implement one of the school intervention models fully and effectively, it would not be able to apply for SIG funds. (New for FY 2010 Guidance)

F-8. What are an SEA's responsibilities for ensuring proper implementation of SIG grants?

As with any Federal education program administered through a State, an SEA is responsible for ensuring that SIG funds are awarded to LEAs and are used by LEAs in accordance with the statutory requirements and the SIG final requirements. In other words, an SEA must ensure that SIG funds it awards to an LEA are used to implement one of the four school intervention models in each Tier I and Tier II school the LEA commits to serve and to carry out school improvement activities in the Tier III schools the LEA commits to serve. Fulfilling this responsibility includes designing an LEA application, carrying out the application review process, and monitoring implementation.

An SEA may, consistent with section 1903 of the ESEA, issue rules and regulations or adopt policies that support and facilitate implementation of SIG grants.

F-9. May an SEA require an LEA to adopt a particular model for a particular school?

No. Each LEA has the discretion to determine which model to implement for each school it elects to serve with SIG funds. The only exception to this is if, consistent with State law, the SEA takes over the LEA or school.

F-10. Is an SEA or LEA that receives SIG funds required to comply with applicable Federal civil rights laws?

Yes. An SEA or LEA that receives SIG funds is required to comply with Federal civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability, and age. For information on applicable civil rights laws, see the Notice on Civil Rights Obligations Applicable to the Distribution of Funds under the American Recovery and Reinvestment Act of 2009 (Notice, available at: http://www.ed.gov/policy/gen/leg/recovery/notices/civil-rights.html). Note that the civil rights laws discussed in the Notice apply to an SEA or LEA receiving any SIG funds, not just FY 2009 SIG funds made available through the ARRA.

G. PROVIDING FLEXIBILITY

G-1. May an SEA award SIG funds to an LEA for a Tier I or Tier II school that has implemented, in whole or in part, a turnaround model, restart model, or transformation model within the last two years?

Yes, Section I.B.1 of the final requirements allows an SEA to award SIG funds to an LEA for a Tier I or Tier II school that has implemented, in whole or in part, one of the models within the last two years so that the LEA and school can continue or complete the intervention being implemented. For example, if a Tier I or Tier II school has hired a new principal within the last two years as part of a school reform effort, consistent with G-1b, the SEA may award funds to the school's LEA to implement a turnaround, restart, or transformation model in the school and the school would not be required to hire another new principal. A school that receives SIG funds in accordance with this flexibility must fully implement the selected model pursuant to the final requirements. In other words, if the school had been implementing the model only in part, it must use the SIG funds it receives to expand its implementation so that it fully complies with the requirements of the selected model.

G-1a. To take advantage of the flexibility afforded in Section I.B.1 of the final requirements with respect to the FY 2010 SIG competition, what is the earliest time at which an LEA could have begun implementing, in whole or in part, a school intervention model?

As noted in G-1, under Section I.B.1, an SEA may award SIG funds to an LEA that has implemented, in whole or in part, one of the school intervention models "within the last two years" in a Tier I or Tier II school. To take advantage of this flexibility in an application submitted for the FY 2010 SIG competition, the earliest an LEA could have begun to implement one of the school intervention models is the start of the 2008-2009 school year. However, an SEA may decide to implement this flexibility by using a subsequent point in time as the earliest that an LEA could have begun implementing a model in order to use SIG funds to continue its implementation (*e.g.*, no earlier than the start of the 2009-2010 school year). (Modified for FY 2010 Guidance)

G-1b. Does the flexibility afforded in Section I.B.1 of the final requirements enable an LEA to retain any principal who has been hired for a Tier I or Tier II school within the last two years?

No. The flexibility in Section I.B.1 is not intended to protect the job of any recently hired principal in a Tier I or Tier II school. Rather, the flexibility provided is intended to permit an LEA to continue a previously implemented intervention aimed at turning around a low-achieving school that included hiring a new principal for that purpose. Accordingly, an LEA taking advantage of this flexibility should be able to demonstrate that: (1) the prior principal in the school at issue was replaced as part of a broader reform effort, and (2) the new principal has the experience and skills needed to implement successfully a turnaround, restart, or transformation model.

G-1c. How should an LEA determine the number of staff members that must be replaced for purposes of implementing the turnaround model when the LEA is taking advantage of the flexibility to continue an intervention it has begun to implement within the last two years?

If a Tier I or Tier II school implementing a turnaround model has replaced staff members within the last two years as part of a school reform effort, consistent with G-1b, the school may count the staff it has already replaced in determining the number of additional staff that would have to be replaced in accordance with the model.

As described in B-3, in determining the number of staff members that may be rehired, an LEA should count the total number of staff positions (however staff is defined) within the school in which the model is being implemented, including any positions that may be vacant at the time of implementation. For example, if a school has a total of 100 staff positions, including some that may be vacant, the LEA may rehire up to 50 staff members. That means the LEA must replace at least 50 staff members in the school. However, if within the last two years, the school had replaced 20 staff members by using locally-adopted competencies to hire 20 new staff members as part of a school reform effort, consistent with G-1b, the LEA would need to replace an additional 30 staff members. On the other hand, if the school had replaced 20 staff members, but only 10 of those staff members were replaced with new staff that were screened using locally-adopted competencies as part of a school reform effort, consistent with G-1b, the LEA would need to replace an additional 40 staff members to meet the requirements of the turnaround model. In other words, new staff that

were screened using locally-adopted competencies and hired within the last two years as part of a school reform effort, consistent with G-1b, do not count as staff that are "rehired." Rather, although these new staff members may be retained in the school, they count as "replaced" staff. (New for FY 2010 Guidance)

G-2. May an SEA award SIG funds to an LEA for a Tier III school that has implemented, in whole or in part, a turnaround model, restart model, or transformation model within the last two years so that the LEA and school can continue or complete their implementation of the model?

Yes, SIG funds may be awarded to an LEA for a Tier III school to continue or complete its implementation of a turnaround, restart, or transformation model. However, the fact that a Tier III school would use its SIG funds to continue or complete its implementation of one of these models would not permit an SEA to award SIG funds to an LEA for a Tier III school before the SEA has awarded funds for all of the Tier I and Tier II schools its LEAs seek to serve, and that the SEA determines its LEAs have capacity to serve. In other words, although this is a permissible use of funds in a Tier III school, it does not provide a basis for altering the priority set forth in sections II.B.4 and II.B.7 of the final requirements.

G-3. For which statutory requirements affecting an LEA's ability to implement fully and effectively the intervention models described in the final requirements is the Secretary specifically inviting an SEA to seek a waiver?

In order to help an SEA and its LEAs increase their ability to implement the SIG program effectively in eligible schools in order to improve the quality of instruction and raise the academic achievement of students in those schools, the Secretary is specifically inviting an SEA to seek a waiver of the following Title I requirements:

(1) The requirement in section 1116(b)(12) of the ESEA for an LEA to identify a school for improvement, corrective action, or restructuring until the school has made AYP for two consecutive years. A waiver of this provision (school improvement timeline waiver) would allow a Tier I or Tier II Title I participating school implementing a turnaround or restart model to "start over" in the school improvement timeline. In approving an SEA's request for a waiver of this statutory provision, the Department will also grant a waiver of 34 C.F.R. § 200.35(b), the regulatory provision implementing this statutory requirement. See section I.B.2 of the final requirements.

(2) The requirement in section 1114(a)(1) of the ESEA that a school have a poverty percentage of 40 percent or greater in order to operate a schoolwide program. A waiver of this provision (schoolwide waiver) would allow a Tier I or Tier II Title I participating school with a poverty percentage of less than 40 percent to operate a schoolwide program. In approving an SEA's request for a waiver of this statutory provision, the Department will also grant a waiver of 34 C.F.R. § 200.25(b)(1)(ii), the regulatory provision implementing this statutory requirement. See section I.B.3 of the final requirements.

(3) With respect to its FY 2009 carryover SIG funds, the requirement in the General Education Provisions Act (GEPA), section 421(b), 20 U.S.C. § 1225(b), that funds be

obligated prior to the end of the fiscal year succeeding the fiscal year for which they were appropriated. A waiver of this provision with respect to FY 2009 carryover funds would allow an SEA to extend the period of availability of those SIG funds so as to make those funds available until September 30, 2014. In approving an SEA's request for a waiver of this statutory provision, the Department will also grant a waiver of 34 C.F.R. § 76.709(a), the regulatory provision implementing this GEPA requirement. See section I.B.4 of the final requirements.

As discussed in Section A of this Guidance, an SEA may also apply for a number of waivers related to its identification of Tier I, Tier II, and Tier III schools that are eligible to receive FY 2010 and/or FY 2009 carryover SIG funds. (Modified for FY 2010 Guidance)

School Improvement Timeline Waiver

G-4. What would the new improvement timeline be for a school implementing a school improvement timeline waiver of section 1116(b)(12) of the ESEA?

A school implementing a school improvement timeline waiver of section 1116(b)(12) of the ESEA would begin the improvement timeline anew beginning the first year in which the improvement model is being implemented. For example, with respect to SIG grants made with FY 2010 and/or FY 2009 carryover funds for full implementation beginning in the 2011–2012 school year, the school would start the improvement timeline over beginning with the 2011–2012 school year. That means the earliest such a school could enter the first year of improvement under section 1116(b) of the ESEA would be the beginning of the 2013–2014 school year (*i.e.*, based on the failure to make AYP based on assessments administered in the 2011–2012 and 2012–2013 school years). (Modified for FY 2010 Guidance)

G-4a. Please confirm which schools may implement a waiver to "start over" the accountability timeline if implementing a turnaround or restart model.

Under section I.B.2 of the final requirements, the Department invited an SEA to seek a waiver of the school improvement timeline in section 1116(b)(12) for any Title I school in improvement, corrective action, or restructuring that is identified as a Tier I or Tier II school and that implements a turnaround or restart model. As a result, if an SEA (or LEA if its SEA does not apply for a waiver) receives such a waiver, any Tier I or Tier II school that receives both Title I, Part A and SIG funds and is located in the SEA (or LEA) may implement the waiver to "start over" in the school improvement timeline. In seeking a waiver, an SEA (or LEA) also may apply to implement the waiver with regard to a Title I school in improvement, corrective action, or restructuring that is identified in Tier III and is implementing the turnaround or restart model with SIG funds. Note that Tier I and Tier II schools that do not receive Title I, Part A funds are not subject to the school improvement timeline in section 1116(b)(12) and therefore do not need the benefit of a waiver.

Waiver to Extend the Period of Availability of SIG Funds

G-5. If an SEA received a waiver of section 421(b) of GEPA to extend the period of availability of its FY 2009 SIG funds through its FY 2009 SIG application, does it need to request this waiver again for its FY 2009 carryover funds?

Yes. For an SEA that received a waiver to extend the period of availability of its FY 2009 SIG funds for two additional years, those funds are available until September 30, 2013. Because the waiver applied to all FY 2009 SIG funds, that means that FY 2009 carryover SIG funds are also available until September 30, 2013. However, an LEA that applies for SIG funds through the FY 2010 competition will not begin full implementation of a school intervention model until the 2011–2012 school year, meaning that the three years of implementation of the model will not be completed until the end of the 2013–2014 school year. As a result, an SEA that allocates FY 2009 carryover SIG funds would want to ensure that those funds are available until September 30, 2014 — one year longer than they are currently available in a State that received this waiver through its FY 2009 application. By requesting the waiver again through its FY 2010 SIG application, FY 2009 carryover SIG funds could be made available for that one additional year — until September 30, 2014. (Modified for FY 2010 Guidance)

G-6. May an SEA request a waiver of section 421(b) of GEPA to extend the period of availability of its FY 2010 SIG funds?

Yes, an SEA may request a waiver to extend the period of availability of its FY 2010 SIG funds until September 30, 2014 to allow it to use FY 2010 SIG funds to provide all three years of funding to grantees (*i.e.*, "frontloading" grants, as in the FY 2009 competition). However, the Department encourages an SEA to consider requesting this waiver only with respect to its FY 2009 carryover SIG funds and providing only the first year of a three-year grant award from its FY 2010 allocation because implementation of this waiver with respect to an SEA's FY 2010 SIG funds would reduce the number of Tier I and Tier II schools that an SEA could serve with SIG funds. Accordingly, an SEA should request this waiver only if it can demonstrate that the SEA and its LEAs lack capacity to serve significantly more Tier I and Tier II schools and, therefore, frontloading would not actually reduce the number of Tier I and Tier II schools served (*i.e.*, because the schools would not be served anyway due to lack of capacity) (see G-6a).

For example, as depicted below, if a State has $36 million in FY 2009 carryover SIG funds and $21 million in FY 2010 funds, and awards each Tier I or Tier II school implementing a school intervention model an average of $1 million per year over three years, the SEA would be able to fund 12 Tier I and Tier II schools with FY 2009 carryover funds (*i.e.*, the $36 million would cover all three years of funding for those 12 schools), plus an additional 21 Tier I and Tier II schools with FY 2010 funds (*i.e.*, the $21 million would cover the first year of funding for each of those schools, and the second and third years would be funded through continuation grants from subsequent SIG appropriations). Thus, as a result of not seeking a waiver to extend the period of availability of FY 2010 SIG funds, the State would be able to support interventions in a total of 33 Tier I and Tier II schools. However, if the same State's LEAs applied for and were approved to serve only 19 Tier I and Tier II schools, either due to the number of eligible schools identified in the State or due to capacity constraints, the State may request a waiver of the period of availability for its FY 2010 funds because then it would be able to use the total of $57 million it has available for its FY 2010 SIG competition to fully fund three-year grant awards to all 19 schools.

FY 2009 Carryover Funds	FY 2010 Funds	# Schools Funded by Frontloading FY 2009 Carryover Funds ($1	# Schools Funded by Granting First-Year Only Awards from FY	Total # Schools Funded by Frontloading FY 2009 Carryover Funds and	Total # Schools Funded by Frontloading FY 2009 Carryover and FY 2010

		million per year per school)	2010 ($1 million per year per school)	Granting First-Year Only Awards from FY 2010 Funds	Funds
$36 million	$21 million	12	21	33	19

(Modified for FY 2010)

G-6a. On what basis may an SEA request a waiver to extend the period of availability of its FY 2010 SIG funds?

As it conducts its FY 2010 SIG competition, an SEA may determine that the SEA and its LEAs do not have the capacity to serve the maximum number of schools that could be served with SIG funds if FY 2009 carryover funds are frontloaded but FY 2010 funds are used for first-year only awards. This may be particularly true in a State, such as the State discussed in the example in G-6, that would be able to serve significantly more schools if it were to allocate FY 2010 SIG funds for first-year only awards than it would if it frontloads FY 2010 funds. For example, at the State level, this lack of capacity might be due to limitations on the SEA's ability to provide adequate technical assistance to significantly more LEAs and schools or limitations on its ability to monitor significantly more schools to ensure that every school is implementing the school intervention models with fidelity. At the LEA level, an LEA might lack capacity to serve significantly more schools than it is already serving with FY 2009 funds if, for example, it is unable to recruit additional principals and/or staff that have the experience and skills needed to implement successfully a turnaround, restart, or transformation model, or because it lacks a sufficient number of CMOs or EMOs that are willing to restart additional schools in the LEA.

Until an SEA sees how many Tier I and Tier II schools its LEAs apply to serve through the FY 2010 competition, it may not know whether the SEA and its LEAs lack sufficient capacity to serve the maximum number of schools that could be served with SIG funds if FY 2009 carryover funds are frontloaded but FY 2010 funds are used for first-year only awards. If, after conducting its FY 2010 competition, an SEA determines that the SEA and its LEAs lack sufficient capacity to serve the maximum number of schools that could be served with SIG funds if it used FY 2010 SIG funds to fund only the first year of a three-year grant, it may apply for a waiver to extend the period of availability of its FY 2010 SIG funds. By requesting the waiver to extend the period of availability of its FY 2010 funds, the SEA would be able to use all of the SIG funds it has available for FY 2010 to "frontload" funding to support all three years of implementation of a school intervention model in a Tier I or Tier II school.

An SEA may request this waiver by complying with the requirements in section 9401 of the ESEA, which are described in the Department's Title I, Part A Waiver Guidance (available at: http://www2.ed.gov/programs/titleiparta/title-i-waiver.doc) and which are summarized in the FY 2010 SIG application. The Department expects that an SEA that requests the waiver to extend the period of availability of its FY 2010 funds would demonstrate a lack of SEA and LEA capacity as part of its request. (New for FY 2010 Guidance)

G-6b. If an SEA does not receive a waiver to extend the period of availability of its FY 2010 SIG funds, will an LEA that receives FY 2010 SIG funds to implement a school intervention model implement the model over three years?

Yes. The Department expects that an LEA using SIG funds to implement a school intervention model in its Tier I and Tier II schools will implement the model over the course of three years. As explained in G-6 and in Appendix B to the FY 2010 SIG Application, in a State that does not receive a waiver to extend the period of availability of its FY 2010 SIG funds, the second and third years of implementation will be funded out of continuation grants made with FY 2011 and FY 2012 SIG funds, assuming the availability of those funds. (New for FY 2010 Guidance)

Cross-Cutting Information on SIG Waivers

G-7. What is the process for an SEA to apply for waivers specifically integral to implementing SIG grants?

The SEA application for SIG funds includes a section for an SEA to indicate which of the waivers specifically integral to implementing school improvement grants it is requesting. All of the waivers discussed above, other than the waiver to extend the period of availability of FY 2010 SIG funds, are included in this section. As noted in G-6a, an SEA may request the waiver to extend the period of availability of FY 2010 SIG funds by complying with the requirements in section 9401 of the ESEA, which are described in the Department's Title I, Part A Waiver Guidance (available at: http://www2.ed.gov/programs/titleiparta/title-i-waiver.doc) and which are summarized in the FY 2010 SIG application. (Modified for FY 2010 Guidance)

G-8. What is the process for an LEA to request approval to implement a SIG-related waiver granted to an SEA?

An LEA may implement the SIG-related waivers granted to its SEA simply by indicating on its application for SIG funds that, if awarded the funds, it would implement the waiver. If an SEA requests and receives one or more waivers, the LEA application the SEA develops must include a section for an LEA to indicate which of these waivers the LEA would implement if awarded SIG funds. That section of the LEA application must require the LEA to indicate the schools for which it will implement the waiver if the LEA does not intend to implement the waiver with respect to each applicable school. (Modified for FY 2010 Guidance)

G-9. Prior to applying for one or more of the waivers discussed in the final requirements through the submission of its application for SIG funds, must an SEA comply with the notice-and-comment requirements in section 9401 of the ESEA?

Yes. In particular, the SEA must provide all interested LEAs in the State with notice and a reasonable opportunity to comment on the request (ESEA section 9401(b)(3)(A)(i)). The SEA must submit all comments it receives from those LEAs to the Secretary along with its application for SIG funds (ESEA section 9401(b)(3)(A)(ii)). The SEA must also provide notice and information regarding the waiver request to the public in the manner in which the SEA customarily provides such notice and information to the public (ESEA section 9401(b)(3)(A)(iii)), such as through a public Web site.

G-10. Must an SEA seek any of the waivers discussed in the final requirements?

No. An SEA is never obligated to request a waiver of statutory or regulatory requirements.

H. LEA REQUIREMENTS

H-1. Which LEAs may apply for a SIG grant?

An LEA that receives Title I, Part A funds and that has one or more Tier I, Tier II, or Tier III schools may apply for a SIG grant. See section II.A.1 of the final requirements. Note that an LEA that is in improvement but that does not have any Tier I, Tier II, or Tier III schools is not eligible to receive SIG funds.

H-2. May an educational service agency apply for a SIG grant on behalf of one or more LEAs?

Only LEAs are eligible to apply to an SEA for a SIG grant. An educational service agency (ESA) may apply for a SIG grant on behalf of one or more LEAs if the ESA is itself an LEA under the definition in section 9101(26) of the ESEA and each LEA for whom the ESA is applying receives Title I, Part A funds and has at least one Tier I, Tier II, or Tier III school. Moreover, the ESA must have the authority and capability to implement the whole-school intervention models required in the final requirements in Tier I and Tier II schools in the LEAs for which it applies to serve.

H-3. Must an LEA that wishes to receive FY 2010 SIG funds submit a new application?

Yes. An LEA that wishes to receive FY 2010 SIG funds through the FY 2010 competition to support interventions in schools that are not being served with FY 2009 SIG funds must submit a new application. The LEA should bear in mind that, if it also received FY 2009 SIG funds, renewal of its SIG grant for the schools being funded with FY 2009 SIG funds will be made out of the FY 2009 SIG funds that were reserved by the SEA when it conducted its competition for FY 2009 funds. Funds from the FY 2010 competition, however, could be used by the LEA to support implementation of a school intervention model in additional schools, which may include schools that had not been identified as eligible to receive SIG funds for purposes of the FY 2009 competition but are eligible to receive SIG funds for purposes of the FY 2010 competition as well as schools that the LEA did not previously have the capacity to serve. (Modified for FY 2010 Guidance)

H-4. What must an LEA include in its application to the SEA for SIG funds?

In addition to any other information that the SEA may require, the LEA must:

(1) Identify the Tier I, Tier II, and Tier III schools the LEA commits to serve;

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

(3) For each Tier I and Tier II school that the LEA commits to serve, demonstrate that the LEA--
- Has analyzed the needs of each school and selected an intervention for each school.

- Has the capacity to enable each school to implement, fully and effectively, the required activities of the school intervention model it has selected;

(4) If the LEA is not applying to serve each Tier I school, explain why it lacks capacity to serve each Tier I school;

(5) Describe actions it has taken, or will take, to:
- Design and implement interventions consistent with the final requirements;
- Recruit, screen, and select external providers, if applicable, to ensure their quality;
- Align other resources with the interventions;
- Modify its practices or policies, if necessary, to enable it to implement the interventions fully and effectively; and
- Sustain the reforms after the funding period ends;

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

(7) Describe the annual goals for student achievement on the State's assessments in both reading/language arts and mathematics that it has established in order to monitor its Tier I and Tier II schools that receive SIG funds;

(8) For each Tier III school the LEA commits to serve, identify the services the school will receive or the activities the school will implement;

(9) Describe the goals the LEA has established to hold accountable the Tier III schools it serves with SIG funds;

(10) Include a budget indicating the amount of SIG funds the LEA will use to--

a. Implement the selected school intervention model in each Tier I and Tier II school it commits to serve;

b. Conduct LEA-level activities designed to support implementation of the selected school intervention models in the LEA's Tier I and Tier II schools; and

c. Support school improvement activities, at the school or LEA level, for each Tier III school identified in the LEA's application;

(11) Consult with relevant stakeholders, as appropriate, regarding the LEA's application and implementation of school improvement models in its Tier I and Tier II schools;

(12) Include the required assurances; and

(13) Indicate any waivers that the LEA will implement with respect to its SIG funds.

See generally sections II.A.2, II.A.4, and II.A.5 of the final requirements.

Note that, even in a State that does not request a waiver to extend the period of availability of its FY 2010 SIG funds, the timeline delineating the steps the LEA will take to implement the selected intervention ((6) above), the required annual goals ((7) and (9) above), and the budget ((10) above) should cover all three years over which the school intervention model will be implemented. (Modified for FY 2010 Guidance)

H-4a. Should families and other members of the community be included among the relevant stakeholders with whom an LEA consults regarding its application for SIG funds and implementation of school improvement models in its Tier I and Tier II schools?

Yes. Family and community engagement is a critical component of a successful intervention in a Tier I or Tier II school. Accordingly, the Department strongly encourages LEAs to engage these stakeholders in the decision-making process regarding an LEA's SIG application. For example, an LEA might hold community meetings to discuss the school intervention model it is considering implementing and the reasons it believes that the model is appropriate; survey families and the community to gauge their needs; or provide updates to families and the community about the application process and status of the LEA's application.

Given the importance of family and community engagement to the success of an intervention, the open dialogue and engagement with these stakeholders should not end when an LEA's application is approved, but should continue through the pre-implementation stage and throughout the implementation of the intervention model. (New for FY 2010 Guidance)

H-5. Must an LEA identify every Tier I, Tier II, and Tier III school located within the LEA in its application for SIG funds?

No, an LEA need not identify every Tier I, Tier II, and Tier III school located within the LEA in its application; the LEA need only identify the Tier I, Tier II, and Tier III schools that it commits to serve with SIG funds.

H-6. Must an LEA commit to serve every Tier I school located within the LEA?

An LEA that applies for a SIG grant must serve each of its Tier I schools—including both Tier I schools that are among the State's persistently lowest-achieving schools and Tier I schools that are newly eligible to receive SIG funds that the SEA has identified as Tier I schools—using one of the four school intervention models unless the LEA demonstrates that it lacks sufficient capacity to do so. See section II.A.3 of the final requirements. An LEA that is serving some of its schools with FY 2009 SIG funds is not obligated to apply for FY 2010 SIG funds to serve additional schools, but if it chooses to do so, it must meet this requirement to serve each of its Tier I schools unless it lacks sufficient capacity to do so, particularly if the LEA wishes to serve any Tier III schools. (Modified for FY 2010 Guidance)

H-7. How might an LEA demonstrate that it lacks sufficient capacity to serve one or more of its Tier I schools?

An LEA might demonstrate that it lacks sufficient capacity to serve one or more of its Tier I schools by documenting efforts such as its unsuccessful attempts to recruit a sufficient number of new

principals to implement the turnaround or transformation model; the unavailability of CMOs or EMOs willing to restart schools in the LEA; or its intent to serve Tier II schools instead of all its Tier I schools (see H-9). An LEA may not demonstrate that it lacks capacity to serve one or more of its Tier I schools based on its intent to serve Tier III schools or the fact that it is currently serving Tier III schools with FY 2009 SIG funds. (Modified for FY 2010 Guidance)

H-8. Is an LEA obligated to serve its Tier II schools?

No. Each LEA retains the discretion to determine whether it will serve any or all of its Tier II schools. Moreover, although an LEA must serve all of its Tier I schools unless it lacks sufficient capacity to do so, an LEA has the choice to serve only a portion of its Tier II schools.

H-9. May an LEA take into account whether it will serve one or more of its Tier II schools in determining its capacity to serve its Tier I schools?

Yes. An LEA must serve all of its Tier I schools if it has the capacity to do so. However, an LEA may take into consideration, in determining its capacity, whether it also plans to serve one or more Tier II schools. In other words, an LEA with capacity to serve only a portion of its Tier I and Tier II schools may serve some of each set of schools; it does not necessarily have to expend its capacity to serve all of its Tier I schools before serving any Tier II schools. See section II.A.3 of the final requirements.

H-10. May an LEA commit to serving only its Tier II schools?

Yes. Even an LEA that has one or more Tier I schools may commit to serving only its Tier II schools. In particular, an LEA that has one or more Tier I schools may commit to serving only its Tier II schools if serving those schools will result in a lack of capacity to serve any Tier I schools (see H-9).

H-11. May an LEA commit to serving only its Tier III schools?

Only an LEA that has no Tier I schools may commit to serving only Tier III schools. See section II.A.7 of the final requirements. This means that an LEA that has Tier II schools, but no Tier I schools, may commit to serve only its Tier III schools. Note, however, that in awarding SIG funds, an SEA must give priority to an LEA that commits to serve Tier I or Tier II schools over an LEA that commits to serve only Tier III schools (see I-7).

H-12. May an LEA commit to serving only a portion of its Tier III schools?

Yes. Just as an LEA has discretion with respect to whether it will serve any Tier II schools and, if so, which ones, an LEA retains discretion with respect to whether it will serve its Tier III schools and, if so, whether it will serve all, only a portion, or any of those schools. Although the final requirements do not impose any restrictions with respect to which Tier III schools an LEA may choose to serve, an SEA may impose requirements that distinguish among Tier III schools (see I-11). An LEA should review its SEA's requirements carefully before determining which, if any, Tier III schools it will commit to serve in its application.

H-12a. May an LEA continue to serve as a Tier III school a school that was previously identified as a Tier III school and is being served in 2010–2011 with FY 2009 SIG funds but is identified as a Tier I or Tier II school for the FY 2010 SIG competition?

In general, no; if it is to be served, the school must be served as a Tier I or Tier II school and must implement one of the SIG intervention models. If a school that was previously identified as a Tier III school and is being served in 2010–2011 with FY 2009 SIG funds is identified as a Tier I or Tier II school for purposes of the FY 2010 competition for SIG funds, that school may not continue to receive SIG funds as a Tier III school beyond the 2010–2011 school year. (See section II.A.3 of the SIG final requirements, providing that an LEA "may not serve with [SIG] funds … a Tier I or Tier II school in which it does not implement one of the four interventions … .") If the LEA in which such a school is located wishes to continue receiving SIG funds for that school, it must apply for SIG funds through the FY 2010 competition to serve the school as a Tier I or Tier II school, as appropriate. The exception to this rule is that a Tier III school that is using SIG funds to implement one of the school intervention models beginning in the 2010–2011 school year may continue to receive FY 2009 SIG funds over the full three years of its grant to support that implementation. (New for FY 2010 Guidance)

H-12b. May an LEA receive FY 2010 or FY 2009 carryover SIG funds for a Tier III school that also is receiving FY 2009 SIG funds as a result of the FY 2009 competition?

No. Through the waiver to extend the period of availability, a Tier III school that is receiving SIG funds as a result of the FY 2009 competition will continue to receive FY 2009 SIG funds in the 2011–2012 and 2012–2013 school years, assuming it meets the requirements for having its grant renewed. Therefore, if a school that was previously identified as a Tier III school and is being served with FY 2009 SIG funds is again identified as a Tier III school for purposes of the FY 2010 competition, it may not continue to receive FY 2009 SIG funds and receive, in addition, FY 2010 and/or FY 2009 carryover SIG funds. In other words, the school may not "double dip" to receive SIG funds from both competitions. (New for FY 2010 Guidance)

H-13. How do the requirements and limitations described in H-6 through H-12c work together to guide an LEA's determination of which schools it must commit to serve with SIG funds?

The following chart summarizes how the requirements and limitations described in H-6 through H-12 work together to guide an LEA's determination of which schools it must commit to serve with SIG funds if it wishes to receive FY 2010 and/or FY 2009 SIG carryover funds:

If an LEA has one or more . . .	In order to get FY 2010 and/or FY 2009 carryover SIG funds, the LEA <u>must</u> commit to serve . . .

Tier I, Tier II, and Tier III schools	Each Tier I school it has capacity to serve; at a minimum, at least one Tier I school *OR* at least one Tier II school[†]
Tier I and Tier II schools, but no Tier III schools	Each Tier I school it has capacity to serve; at a minimum, at least one Tier I school *OR* at least one Tier II school[1]
Tier I and III schools, but no Tier II schools	Each Tier I school it has capacity to serve; at a minimum, at least one Tier I school
Tier II and Tier III schools, but no Tier I schools	The LEA has the option to commit to serve as many Tier II and Tier III schools as it wishes
Tier I schools only	Each Tier I school it has capacity to serve
Tier II schools only	The LEA has the option to commit to serve as many Tier II schools as it wishes
Tier III schools only	The LEA has the option to commit to serve as many Tier III schools as it wishes

(Modified for FY 2010 Guidance)

H-14. If an LEA wishes to serve a Tier III school, must it provide SIG funds directly to the school?

No. An LEA may "serve" a Tier III school by providing services that provide a direct benefit to the school. Accordingly, a Tier III school that an LEA commits to serve must receive some tangible benefit from the LEA's use of SIG funds, the value of which can be determined by the LEA, but the school need not actually receive SIG funds. For example, an LEA might use a portion of its SIG funds at the district level to hire an outside expert to help Tier III schools examine their achievement data and determine what school improvement activities to provide based on that data analysis. Similarly, an LEA might provide professional development at the district level to all or a subset of its Tier III schools.

[†] The number of Tier I schools an LEA has capacity to serve may be zero if, and only if, the LEA is using all of the capacity it would otherwise use to serve its Tier I schools in order to serve Tier II schools.

H-15. Are there any particular school improvement strategies that an LEA must implement in its Tier III schools?

No. An LEA has flexibility to choose the strategies it will implement in the Tier III schools it commits to serve. Of course, the strategies the LEA selects should be research-based and designed to address the particular needs of the Tier III schools.

H-16. May an LEA use SIG funds to continue to implement school improvement strategies that do not meet the requirements of one of the four models but that have helped improve achievement in the LEA?

Yes. An LEA may use SIG funds for these activities in Tier III schools or may add them to the school intervention models in Tier I or Tier II schools, to the extent they are consistent with the requirements of those models. The LEA may also use other sources of funds, such as school improvement funds it receives under section 1003(a) of the ESEA or under Title I, Part A, for these other strategies.

H-17. May an LEA implement several of the school intervention models among the Tier I and Tier II schools it commits to serve?

Generally, yes. An LEA may use whatever mix of school intervention models it determines is appropriate. However, if an LEA has nine or more Tier I and Tier II schools, the LEA may not implement the transformation model in more than 50 percent of those schools (see H-21).

H-18. How can an LEA demonstrate that it has the capacity to use SIG funds to provide adequate resources and related support to each Tier I and Tier II school it commits to serve in order to implement fully and effectively one of the four school intervention models?

An LEA can demonstrate that it has the capacity to use SIG funds to provide adequate resources and related support to each Tier I and Tier II school it commits to serve by addressing a number of matters. For example, the LEA might emphasize the credentials of staff who have the capability to implement one of the school intervention models. The LEA might also indicate its ability to recruit new principals to implement the turnaround and transformation models or the availability of CMOs and EMOs it could enlist to implement the restart model. The LEA might also indicate the support of its teachers' union with respect to the staffing and teacher evaluation requirements in the turnaround and transformation models, the commitment of its school board to eliminate any barriers and to facilitate full and effective implementation of the models, and the support of staff and parents in schools to be served. In addition, the LEA should indicate through the timeline required in its application that it has the ability to begin implementing the school intervention model it selects fully and effectively by the beginning of the 2011–2012 school year. (Modified for FY 2010 Guidance)

H-19. How can an LEA use "external providers" to turn around its persistently lowest-achieving schools?

The most specific way an LEA can use "external providers" is to contract with a charter school operator, a CMO, or an EMO to implement the restart model in a Tier I or Tier II school. The LEA might also contract with a turnaround organization to assist it in implementing the turnaround

model. The LEA might also use external providers to provide technical expertise in implementing a variety of components of the school intervention models, such as helping a school evaluate its data and determine what changes are needed based on those data; providing job-embedded professional development; designing an equitable teacher and principal evaluation system that relies on student achievement; and creating safe school environments that meet students' social, emotional, and health needs.

H-19a. How should an LEA select external providers to assist it in turning around its persistently lowest-achieving schools?

As discussed above in Section C of the guidance (see, in particular, C-5), if an LEA wishes to contract with a charter school operator, a CMO, or an EMO to implement the restart model, it must select that charter school operator, CMO, or EMO through a "rigorous review process." All other external providers must also be screened for their quality. (See section I.A.4(iii) of the final requirements, providing that, in its application for SIG funds, an LEA must describe, among other things, the actions it has taken, or will take, to recruit, screen, and select external providers to ensure their quality.) The purpose of such screening is similar to the purpose of the "rigorous review process," in that both processes permit an LEA to examine a prospective provider's reform plans and strategies. Screening an external provider helps prevent an LEA from contracting with a provider without ensuring that the provider has a meaningful plan for contributing to the reform efforts in the targeted school. In screening a potential external provider, an LEA might, for example, require the provider to demonstrate that its strategies are research-based and that is has the capacity to implement the strategies it is proposing. (New for FY 2010 Guidance)

H-20. What are examples of "other resources" an LEA might align with the interventions it commits to implement using SIG funds?

An LEA might use a number of other resources, in addition to its SIG funds, to implement the school intervention models in the final requirements. For example, an LEA might use school improvement funds it receives under section 1003(a) of the ESEA or Title I, Part A funds it received under the ARRA. The LEA might also use its general Title I, Part A funds as well as funds it receives under other ESEA authorities, such as Title II, Part A, which it could use for recruiting high-quality teachers, or Title III, Part A, which it could use to improve the English proficiency of LEP students.

H-21. What is the cap on the number of schools in which an LEA may implement the transformation model and to which LEAs does it apply?

An LEA with nine or more Tier I and Tier II schools, including both schools that are being served with FY 2009 SIG funds and schools that are eligible to receive FY 2010 SIG funds, may not implement the transformation model in more than 50 percent of those schools. See section II.A.2(b) of the final requirements. Given that the cap only applies to an LEA with nine or more Tier I and Tier II schools, an LEA with, for example, four Tier I schools and four Tier II schools, for a total of eight Tier I and Tier II schools, would not be impacted by the cap. However, an LEA with, for example, seven Tier I schools and two Tier II schools, for a total of nine Tier I and Tier II schools, would be impacted by the cap. Thus, continuing the prior example, the LEA with seven Tier I schools and two Tier II schools would be able to implement the transformation model in no more than four of those schools. This limitation applies irrespective of whether the Tier I or Tier II

schools an LEA applies to serve are among the State's persistently lowest-achieving schools or whether they are newly eligible schools identified as Tier I or Tier II schools at the State's option.

For example, for FY 2009, LEA 1 had seven Tier I schools and two Tier II schools, so it was impacted by the cap. Using FY 2009 SIG funds, it implemented the transformation model in four of those schools. For FY 2010, LEA 1 has two additional Tier I schools and two additional Tier II schools, so it now has a total of 13 Tier I and Tier II schools, which means it may implement the transformation model in a total of six schools, or two schools in addition to those that are being served with FY 2009 funds. (Modified for FY 2010 Guidance)

H-21a. If an LEA that was not subject to the nine-school cap for FY 2009 is subject to the cap for FY 2010 because it now has nine or more Tier I and Tier II schools and is already exceeding the cap based on the number of schools in which it is implementing the transformation model in 2010–2011, must it change the model being implemented in some of those schools in order to comply with the cap?

No. An LEA in this situation need not change the models it is implementing in the schools already being served with SIG funds but, if it is already exceeding the cap, it may not implement the transformation model in any additional schools.

For example, for FY 2009, LEA 2 had four Tier I schools and four Tier II schools, so it was not affected by the cap (because it only had eight Tier I and Tier II schools). Using FY 2009 SIG funds, it implemented the transformation model in all four Tier I schools and two Tier II schools. For FY 2010, LEA 2 has three additional schools identified as Tier I, so it now has a total of 11 Tier I and Tier II schools, which means the cap would apply. As a result, it may implement the transformation model in only five of its schools. Under these circumstances, LEA 2 would not be required to stop implementing the transformation model in one of its schools, but it would not be permitted to implement the transformation model in any additional Tier I or Tier II schools that it seeks to serve. (New for FY 2010 Guidance)

H-22. If an LEA lacks capacity to implement any of the four interventions in all of its Tier I schools, may it apply for SIG funds to provide other services to some of its Tier I schools?

No. The only services an LEA may provide to a Tier I school using SIG funds are services entailed in the implementation of one of the four interventions described in the final requirements (*i.e.*, turnaround model, restart model, school closure, or transformation model). If an LEA lacks capacity to implement one of those models in some or all of its Tier I schools, the LEA may not use any SIG funds in those schools. See section II.A.3 of the final requirements.

H-23. May an LEA use SIG funds to serve a school that feeds into a Tier I, Tier II, or Tier III school, but is not itself a Tier I, Tier II, or Tier III school?

No. Only a school that is a Tier I, Tier II, or Tier III school may be served with SIG funds. See section II.A.1 of the final requirements.

H-24. What criteria must an LEA use to monitor each Tier I and Tier II school that receives SIG funds?

An LEA must monitor each Tier I and Tier II school that receives SIG funds to determine whether the school:

(1) Is meeting annual goals established by the LEA for student achievement on the State's ESEA assessments in both reading/language arts and mathematics; and

(2) Is making progress on the leading indicators described in the final requirements.

See section II.A.8 of the final requirements.

H-25. What are examples of the annual goals for student achievement that an LEA must establish for its Tier I and Tier II schools?

An LEA must establish annual goals for student achievement on the State's ESEA assessments in both reading/language arts and mathematics that it will use to monitor each Tier I and Tier II school that receives SIG funds. See section II.A.8 of the final requirements. Annual goals that an LEA could set might include making at least one year's progress in reading/language arts and mathematics; reducing the percentage of students who are non-proficient on the State's reading/language arts and mathematics assessments by 10 percent or more from the prior year; or meeting the goals the State establishes in its Race to the Top application.

Note that the determination of whether a school meets the goals for student achievement established by the LEA is in addition to the determination of whether the school makes AYP as required by section 1111(b)(2) of the ESEA. In other words, each LEA receiving SIG funds must monitor the Tier I and Tier II schools it is serving to determine whether they have met the LEA's annual goals for student achievement and must also comply with its obligations for making accountability determinations under section 1111(b)(2) of the ESEA.

Further, note that the LEA should establish annual goals to cover all three years of implementation of the school intervention model, even if the second and third years will be funded out of continuation grants. (Modified for FY 2010 Guidance)

H-26. What are examples of the goals an LEA must establish to hold accountable the Tier III schools it serves with SIG funds?

An LEA must establish, and the SEA must approve, goals to hold accountable the Tier III schools it serves with SIG funds (see section II.C(a) of the final requirements), although the LEA has discretion in establishing those goals. For example, the LEA might establish for its Tier III schools the same student achievement goals that it establishes for its Tier I and Tier II schools, or it might establish for its Tier III schools goals that align with the already existing AYP requirements, such as meeting the State's annual measurable objectives or making AYP through safe harbor. Note that the goals that the LEA establishes must be approved by the SEA.

H-27. What are the leading indicators that will be used to hold schools receiving SIG funds accountable?

The following metrics constitute the leading indicators for the SIG program:

(1) Number of minutes within the school year;

(2) Student participation rate on State assessments in reading/language arts and in mathematics, by student subgroup;

(3) Dropout rate;

(4) Student attendance rate;

(5) Number and percentage of students completing advanced coursework (e.g., AP/IB), early-college high schools, or dual enrollment classes;

(6) Discipline incidents;

(7) Truants;

(8) Distribution of teachers by performance level on an LEA's teacher evaluation system; and

(9) Teacher attendance rate.

See section III.A of the final requirements.

H-28. Is there a limit on the amount of SIG funds an LEA may carry over?

No. The provision in section 1127(a) of the ESEA that limits the amount of Title I, Part A funds an LEA may carry over to the subsequent fiscal year does not apply to SIG funds.

H-29. May an LEA use SIG funds to pay for the costs of minor remodeling necessary to support technology that will be used as part of the implementation of a school intervention model?

Yes, an LEA may use SIG funds to pay for the costs of minor remodeling that is necessary to support technology if the costs are directly attributable to the implementation of a school intervention model and are reasonable and necessary.

The overall goal of the SIG program is to improve student academic achievement in persistently lowest-achieving schools through the implementation of one of four school intervention models. If an LEA determines, with an eye toward the ultimate goal of improving student achievement, that the use of new technology is essential for the full and effective implementation of one of the models, it may deem the costs associated with that new technology a reasonable and necessary use of SIG funds. For example, if an LEA chooses to accelerate learning by implementing Web-based interim assessments and aligned on-line instructional materials for students and that implementation requires computers placed in classrooms rather than in a computer lab and wireless connectivity, it may use SIG funds to carry out minor remodeling needed to accommodate the computers in the classrooms and the wireless connectivity.

Please note that, under 34 C.F.R. § 77.1(c), "minor remodeling" means "minor alterations in a previously completed building," and also includes the "extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building." "Minor remodeling"

specifically "does *not* include building construction, structural alterations to buildings, building maintenance, or repairs." (34 C.F.R. § 77.1(c) (emphasis added).)

Any costs for minor remodeling that an LEA wishes to support with SIG funds must be included in the LEA's proposed SIG budget and reviewed and approved by the SEA. In addition, the LEA must keep records to demonstrate that such costs are directly attributable to its implementation of a school intervention model as well as reasonable and necessary.

I. SEA REQUIREMENTS

I-1. What must an SEA do to receive an FY 2010 SIG grant?

To receive a SIG grant, an SEA must submit an application to the Department at such time, and containing such information, as the Secretary shall reasonably require. Although the FY 2010 application generally asks for the same information that was asked for in the FY 2009 application, an SEA may modify the information it provides for FY 2010 to reflect lessons learned and changes it wishes to make in how it implements its SIG program moving forward.

In addition to any other information that the Secretary may reasonably require, an SEA's application for an FY 2010 SIG grant must describe:

(1) The SEA's process and timeline for approving LEA applications.

(2) How it will evaluate an LEA's proposed use of funds for pre-implementation activities.

(3) If it will be different from the process that was used for the SEA's FY 2009 SIG grant, the SEA's process for reviewing an LEA's annual goals for student achievement for its Tier I and Tier II schools and how the SEA will determine whether to renew an LEA's SIG grant with respect to one or more Tier I or Tier II schools within the LEA that are not meeting those goals and making progress on the leading indicators.

(4) If it will be different from the process that was used for the SEA's FY 2009 SIG grant, the SEA's process for reviewing an LEA's goals for its Tier III schools and how the SEA will determine whether to renew an LEA's SIG grant with respect to one or more Tier III schools within the LEA that are not meeting those goals.

(5) If it will be different from the monitoring process that will be used for the SEA's FY 2009 SIG grant, how the SEA will monitor each LEA that receives a SIG grant to ensure that it is implementing a school intervention model fully and effectively in the Tier I and Tier II schools the SEA approves the LEA to serve.

(6) If it will be different from the method of prioritizing the SEA used for its FY 2009 SIG grant, how the SEA will prioritize SIG grants to LEAs if the SEA does not have sufficient SIG funds to serve all eligible schools for which each LEA applies.

(7) If they differ from the criteria that were used for the SEA's FY 2009 SIG grant, the criteria, if any, that the SEA intends to use to prioritize among Tier III schools.

(8) If the SEA intends to take over any Tier I or Tier II schools, identify those schools and indicate the school intervention model the SEA will implement in each school.

(9) If the SEA intends to provide services directly to any schools in the absence of a takeover, identify those schools and, for Tier I or Tier II schools, indicate the school intervention model the SEA will implement in each school, and provide evidence of the LEA's approval to have the SEA provide the services directly.

The SEA's application must also provide the criteria it will use to evaluate an LEA's application (see I-2) if they differ from the criteria that were used for the SEA's FY 2009 SIG grant, as well as certain assurances related to its SIG grant. See generally section II.B.2 of the final requirements and the FY 2010 SIG State application. (Modified for FY 2010 Guidance)

I-2. Before approving an LEA's application, what factors must an SEA consider to determine whether the application meets the final requirements?

An SEA must have criteria to evaluate the following information in an LEA's application (see section II.B.2(b) of the final requirements):

(1) Whether the LEA has analyzed the needs of each Tier I and Tier II school identified in the LEA's application and has selected one of the four school intervention models identified in the final requirements (*i.e.*, turnaround model, restart model, school closure, or transformation model) to implement in each school.

(2) Whether the LEA has demonstrated that it has the capacity to use SIG funds to provide adequate resources and related support to each Tier I and Tier II school identified in the LEA's application in order to implement fully and effectively the selected intervention in each of those schools. If an LEA claims it lacks sufficient capacity to serve each Tier I school, the SEA must evaluate the sufficiency of the LEA's claim.

(3) Whether the LEA has submitted a budget that includes sufficient funds to implement the selected intervention fully and effectively in each Tier I and Tier II school identified in the LEA's application as well as to support school improvement activities in Tier III schools throughout the period of availability of the funds (taking into account any waiver extending that period received by either the SEA or the LEA).

The SEA must also evaluate the actions an LEA has taken, or will take, to do the following (see section II.A.2(a)(iv) of the final requirements):

(1) Design and implement interventions consistent with the final requirements.

(2) Recruit, screen, and select external providers, if applicable, to ensure their quality.

(3) Align other resources with the interventions.

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

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

I-3. In completing its application for SIG funds, must an SEA check the boxes that appear on the application next to each of the required assurances in order to make those assurances? Must it check the boxes next to the requirements for which a waiver may be sought if it wants to receive waivers of those requirements?

Yes. The FY 2010 application for SIG funds has been updated to enable an SEA to complete it electronically. In order for the Department to determine whether an SEA has made a particular assurance or is requesting a particular waiver, the SEA must "check" the box that appears next to each assurance and next to each waiver that it is requesting. (Modified for FY 2010 Guidance)

I-4. May an SEA require an LEA to implement a particular intervention in one or more of its schools?

No. An SEA may not require an LEA to implement a particular intervention in one or more of its Tier I and Tier II schools unless the SEA has taken over the school (or the LEA) in accordance with State law. See section II.B.2(d) of the final requirements. Even if an LEA is required to implement an intervention other than the transformation model in one or more of its schools because the LEA has exceeded the cap with respect to the number of schools in which it can implement that model, the LEA has the discretion to determine the schools in which it will implement the transformation model and which of the other three interventions it will implement in its other Tier I and Tier II schools.

I-4a. May an SEA impose additional requirements for the implementation of the SIG program beyond those set forth in the final requirements?

The final requirements for the SIG program vest an LEA with the authority to select the appropriate school intervention model and to determine how best to meet the requirements for that model in each of the Tier I and Tier II schools it commits to serve. A key principle of the SIG program is that these decisions will be made based on an LEA's careful analysis of local needs and capacity.

However, an SEA may issue rules, regulations, and policies to support the implementation of the SIG program so long as those rules, regulations, and policies conform to the purposes of Title I and are consistent with the Title I requirements. (ESEA section 1903.) An SEA that wishes to impose additional requirements for the SIG program must have authority under State law to do so; the final requirements for the SIG program do not authorize an SEA to take action that it is not otherwise permitted to take. Additionally, in accordance with section 1903(a)(1)(D) and 1903(b) of the ESEA, any additional requirements imposed by an SEA must be reviewed by the State's Committee of Practitioners and must be identified by the SEA as State-imposed requirements.

If an SEA chooses to impose additional requirements, any such requirements should be thoughtfully designed to support its schools' effective implementation of the SIG program in order to improve outcomes for students. Thus, requirements should be flexible enough to permit adaptation to meet local needs and circumstances. These additional requirements should be part of a coherent SEA strategy to turn around its persistently lowest-achieving schools.

An SEA may not, however, issue rules, regulations, or policies that would be inconsistent with the final requirements for SIG. For example, an SEA could not require an LEA implementing the

school closure model to enroll students who attended the closed school in the closest school unless that school also was a higher-achieving school, consistent with the requirement that students from the closed school be enrolled in higher-achieving schools.

I-5. May an SEA develop a needs assessment tool or rubric for all of its LEAs to use in determining which intervention will best address the needs of the Tier I and Tier II schools it commits to serve?

Yes. Although an SEA is not obligated to develop a needs assessment that would be used on a statewide basis, it may choose to do so. The SEA could offer such a needs assessment as a technical assistance tool that would be available to LEAs that wish to use it or it could require all LEAs to use the same needs assessment in preparing their applications for SIG funds.

I-6. What information related to the SIG program must an SEA post on its Web site?

An SEA must post on its Web site all final LEA applications for SIG grants, including both applications that were approved and those that were rejected. An SEA does not have to post on its Web site initial versions of LEA applications that were replaced with updated versions (*e.g.*, to provide additional information requested by the SEA); the SEA need only post on its Web site the final versions of the applications.

In addition, an SEA must post on its Web site a summary of the SIG grants it awarded, including the following information:

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

(2) Amount of each LEA's grant;

(3) Name and NCES identification number of each school to be served; and

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

See section II.B.3 of the final requirements.

I-7. How must an SEA prioritize among LEAs seeking SIG funds?

If an SEA does not have sufficient SIG funds to support fully and effectively each school for which its LEAs have applied throughout the period of availability, an SEA must give priority to LEAs seeking to fund Tier I or Tier II schools. See section II.B.4 of the final requirements. This priority applies irrespective of whether the Tier I or Tier II schools an LEA applies to serve are among the State's persistently lowest-achieving schools or whether they are newly eligible schools identified as Tier I or Tier II schools at the State's option.

I-8. May an SEA award an LEA funds to serve its Tier III schools before it awards funds to serve all of the Tier I and Tier II schools that its LEAs commit to serve and that its LEAs have capacity to serve?

No. An SEA may not award SIG funds to an LEA for any Tier III schools unless and until the SEA has awarded funds to support the full and effective implementation of one of the four school

intervention models throughout the period of availability in each Tier I and Tier II school its LEAs commit to serve and that the SEA determines its LEAs have capacity to serve. In other words, only if an SEA has awarded funds to serve each Tier I and Tier II school that its LEAs commit to serve, and that the SEA determines its LEAs have the capacity to serve, may the SEA award funds to its LEAs to serve any Tier III schools. See section II.B.7 of the final requirements.

I-9. If an SEA does not have sufficient SIG funds to allocate funds for every Tier I and Tier II school that its LEAs seek to serve, and that the SEA determines its LEAs have capacity to serve, what factors might an SEA use to determine the Tier I and Tier II schools for which it will award funds to its LEAs?

An SEA that does not have sufficient SIG funds to allocate funds for every Tier I and Tier II school its LEAs commit to serve, and that the SEA determines its LEAs have capacity to serve, might use any one or more of a number of factors to determine the Tier I and Tier II schools for which it will award funds. For example, an SEA might give priority to awarding funds to LEAs to serve Title I participating schools or other high poverty schools. The SEA might also determine the Tier I and Tier II schools for which it will award funds based on such factors as the interventions an LEA is implementing in those schools, where the schools fall in the rank ordering of schools in terms of achievement, or other factors the SEA deems appropriate. The SEA may also take into account the distribution of Tier I and Tier II schools to ensure that Tier I and Tier II schools throughout the State are served.

I-9a. May an SEA use the number of students in a school as a priority factor for awarding SIG funds?

An SEA may not use the number of students in a school to prioritize between tiers (*e.g.*, Tier III over Tier I or Tier II schools). The SEA may, however, give priority within a tier to schools based on school size.

I-10. May an SEA award an LEA a lesser amount of SIG funds than the LEA requests in its application?

Yes. An SEA's decision to award SIG funds to a particular LEA does not obligate the SEA to award the LEA all of the funds it requested. An SEA's decision to award fewer SIG funds than the LEA requested could come about in two different ways: (1) the SEA could decide to award fewer funds than the LEA requested for each school the LEA commits to serve; or (2) the SEA could decide to award funds for only some of the schools the LEA commits to serve. For example, consistent with the priority established in the final requirements, an SEA could approve an LEA's application with respect to all of its Tier I and Tier II schools, but only a portion (or none) of its Tier III schools. An SEA might also decide to award fewer funds than the LEA requested if the SEA determines, for example, that the LEA has not properly analyzed the needs of its schools or identified appropriate services for the schools.

I-10a. What is the maximum amount of SIG funds that an SEA may award to an LEA for an individual Tier I or Tier II school?

The maximum per-school SIG award is capped at $2 million annually, the same as in the FY 2009 SIG competition. (Modified for FY 2010 Guidance)

I-10b. May an SEA reduce the amount it allocates each year over a three-year period to an LEA for its persistently lowest-achieving schools to ensure sustainability after the funding runs out?

Yes, an SEA may award declining amounts of funding for implementation of a school intervention model over the three-year grant period as part of a strategy to encourage sustainability of the model following the end of Federal support. However, an SEA must award SIG funds in a manner that provides an LEA with the amount needed to support full and effective implementation of the selected intervention models throughout the period of availability of the funds; an SEA may not simply fund those activities that can be sustained following the end of the award period.

An SEA may also reduce the amount it allocates each year to a particular LEA, even if the second and third years of the LEA's grant are funded through continuation grants. (Modified for FY 2010 Guidance)

I-11. What are examples of additional criteria an SEA may use to differentiate among Tier III schools when setting priorities among LEA applications for funding?

An SEA might consider establishing criteria to target Tier III schools that are in the lowest-achieving sixth to tenth percentile in the State, to reward a Tier III school that would have been a Tier I school but has made progress over several years, or to focus on clusters of Tier III elementary schools that are feeder schools into Tier I and Tier II secondary schools. Note that these are only examples of criteria that an SEA might consider; an SEA should determine the criteria that work best for the State based on its unique needs.

I-12. May an SEA take over an LEA or specific Tier I or Tier II schools?

An SEA may, consistent with State law, take over an LEA or specific Tier I or Tier II schools in order to implement the interventions in the final requirements. See section II.B.2(c) of the final requirements.

I-13. What SIG funds may an SEA use to implement a school intervention model in a Tier I or Tier II school it has taken over?

If an SEA has authority under State law to take over a Tier I or Tier II school, the SEA may retain the SIG funds that it would otherwise have allocated to an LEA for the school and use those funds to implement a school intervention model in the school.

I-14. Under what circumstances may an SEA provide services directly to an eligible school?

As authorized in section 1003(g)(7) of the ESEA, with the approval of the LEAs that would otherwise receive a SIG grant, an SEA may provide school improvement services directly or arrange for their provision through other entities such as school support teams or educational service agencies. This option may be particularly useful if an LEA lacks the capacity to implement any of the four intervention models itself in its Tier I and Tier II schools. An SEA may be better equipped than some LEAs, for example, to enter into a contract with an external provider to implement the restart model. Of course, the SEA must have the authority and capability, either directly or through

an arrangement with an external provider, to implement one of the school intervention models in each Tier I or Tier II school in which it provides services directly. That is, the SEA must be able, for example, to govern the school, employ and evaluate staff, implement the instructional program, provide increased learning time, etc.

With respect to Tier III schools, an SEA may also provide school improvement services directly to eligible schools, with the approval of the LEAs that would otherwise receive a SIG grant. For example, an SEA may offer professional development from specific providers or "sell" technical assistance from the SEA's school support teams.

If the SEA intends to provide services directly to any schools, the SEA must identify those schools in its SIG application to the Department and, for Tier I or Tier II schools, indicate the school intervention model the SEA will implement in each school, and provide evidence of the LEA's approval to have the SEA provide the services directly. If, at the time an SEA submits its application, it has not yet determined whether it will provide services directly to any schools, it may omit this information from its application. However, if the SEA later decides that it will provide such services, it must amend its application to provide the required information.

I-15. If a Tier I or Tier II school meets the annual student achievement goals established by the LEA and makes progress on the leading indicators, must the SEA renew the LEA's SIG grant with respect to that school?

Yes. See I-15a for an explanation of which year's funds an SEA would use to renew an LEA's SIG grant. (Modified for FY 2010 Guidance)

I-16. If a Tier I or Tier II school does not meet the annual student achievement goals established by the LEA, may an SEA renew the LEA's SIG grant with respect to that school?

Yes. Even if a Tier I or Tier II school does not meet the annual student achievement goals established by the LEA, an SEA may renew the LEA's SIG grant with respect to that school if the school is making progress toward meeting those goals. Because it may be difficult for a persistently lowest-achieving school to show much improvement in academic achievement during the first year of implementing one of the school intervention models, an SEA has discretion to examine factors such as the school's progress on the leading indicators in section III of the final requirements or the fidelity with which it is implementing the model in deciding whether to renew the LEA's SIG grant with respect to that school. See section II.C(a)(ii) of the final requirements.

I-17. What goals must a Tier III school meet to establish that the LEA's grant with respect to that school must be renewed?

For a grant to be renewed with respect to a Tier III school, the school must meet the goals established by the LEA and approved by the SEA (see H-27), or make progress toward meeting those goals. See section II.C(a)(i)-(ii) of the final requirements.

I-18. May an SEA renew an LEA's SIG grant even if the SEA determines that one or more of its schools do not warrant renewed funding?

Yes. Even if an SEA determines that one or more of an LEA's schools do not warrant renewed funding, the SEA may continue to award the LEA SIG funds for other eligible schools. The SEA would reduce the LEA's grant, however, by the amount allocated for the schools for which funding is not being renewed.

I-19. What happens to SIG funds when an SEA does not renew funding to schools?

If an SEA does not renew all or part of an LEA's SIG grant because the LEA's Tier I and Tier II schools are not meeting the requirements in section II.A.8 of the final requirements (*i.e.*, meeting the LEA's annual goals for student achievement and making progress on the leading indicators) or because the LEA's Tier III schools are not meeting the goals established for those schools by the LEA, the SEA may reallocate those funds to other eligible LEAs, consistent with the final requirements. See section II.C(b) of the final requirements.

I-20. May an SEA renew an LEA's SIG grant with respect to a school that exits improvement?

Yes. The fact that a Title I school may have exited improvement during the period of availability of SIG funds or after the initial award of SIG funds to implement a school intervention model would not prevent as SEA from renewing an LEA's SIG grant with respect to that school. (Modified for FY 2010 Guidance)

I-20a. Which year's funds does an SEA use to renew an LEA's SIG grant?

An SEA that receives a waiver to extend the period of availability of its FY 2009 carryover SIG funds but does not receive the waiver to extend the period of availability of its FY 2010 SIG funds will use different funds to renew an LEA's grant, depending on whether the LEA's grant is funded with FY 2009 carryover funds or FY 2010 funds. For LEAs that are funded with FY 2009 carryover SIG funds, the SEA must apportion those SIG funds in a way that will enable it to renew each LEA's grant for additional one-year periods for the entire period of availability of the funds. See section II.C(a)(i) of the final requirements. On the other hand, for LEAs that are funded with FY 2010 SIG funds, the SEA would fund the renewal of each LEA's grant through a continuation grant using subsequently appropriated SIG funds, assuming the availability of such funds. (New for FY 2010 Guidance)

I-21. Must an SEA run another SIG competition for grants funded with FY 2010 funds?

Yes. The Consolidated Appropriations Act, 2010 appropriated $546 million in SIG funds for FY 2010. Accordingly, an SEA must run another competition for those funds, combined with any FY 2009 funds the SEA has carried over. Like the competition for the FY 2009 funds, the competition for FY 2010 funds, and any subsequent competition, must be conducted consistent with the final requirements. See A-30a through A-30k for a discussion of how an SEA must identify schools that are eligible to receive FY 2010 and FY 2009 carryover funds. (Modified for FY 2010 Guidance)

I-22. Must an SEA carry over 25 percent of its FY 2010 SIG funds if it does not serve all of its Tier I schools through its competition for FY 2010 SIG funds?

No. Although an SEA was required to carry over 25 percent of its FY 2009 SIG funds if it did not serve all Tier I schools in the State through its competition for FY 2009 funds, that requirement was limited to FY 2009. (Modified for FY 2010 Guidance)

(*Questions I-22a, I-22b, and I-23 of the FY 2009 Guidance have been deleted as inapplicable for the FY 2010 Guidance.)

I-24. How can an SEA support its LEAs and schools with their implementation of the school intervention models discussed in the final requirements?

An SEA can support its LEAs and Tier I and Tier II schools in implementing a school intervention model in a number of ways. These might include helping to identify and recruit new principals within and outside the State; recruiting CMOs and EMOs to the State to restart schools; providing model procedures for LEAs to use to screen and select high-quality external providers; working to reduce any State-level barriers that may impede an LEA's ability to implement a particular model; developing a model teacher evaluation system; researching instructional programs that have proven effective in low-achieving schools; and developing longitudinal data systems to enable schools to use data to identify the needs of individual students. The SEA can also support its Tier III schools by providing technical assistance, for example, through its school support teams.

I-24a. How can an SEA provide technical assistance to its LEAs regarding their processes for recruiting, screening, and selecting external providers to ensure their quality?

An SEA may take a number of actions to assist its LEAs with recruiting, screening, and selecting high-quality external providers to assist in implementing their school intervention models. By way of example, the SEA might:

- Develop and discuss with LEAs sample rubrics to assess external providers;
- Distribute samples of high-quality RFPs, MOUs, or contracts with external providers;
- Provide LEAs with links to high-quality resources and tools to assess external providers;
- Provide guidance on how to assess the organizational and financial capacity of external providers; or
- Provide examples of how external providers are being used to successfully support reform efforts throughout the State.

The SEA should consider the particular technical assistance that would be most beneficial to its LEAs based on its experience with its LEAs and any relevant circumstances in the State. (New for FY 2010 Guidance)

I-25. How do the final requirements for the SIG program impact an SEA that is participating in the Department's "differentiated accountability" pilot?

An SEA that has been approved to participate in the differentiated accountability pilot may continue to do so. However, the SEA must ensure that its LEAs use SIG funds only to implement school intervention models in their Tier I or Tier II schools consistent with the final requirements. See section II.B.11 of the final requirements. Thus, to the extent that a State's differentiated accountability plan is inconsistent with the final requirements, an LEA receiving SIG funds must use

those funds in accordance with the final requirements, even if the State's differentiated accountability plan would permit greater flexibility. An SEA participating in the differentiated accountability pilot must assure that its LEAs use SIG funds in Tier I or Tier II schools consistent with the final requirements.

I-26. In the absence of a waiver, when will the period of availability for FY 2010 SIG funds expire?

In the absence of a waiver, the period of availability for FY 2010 SIG funds expires September 30, 2012. Thus, the funds are available for pre-implementation activities in the 2010–2011 school year and one year of full implementation in the 2011–2012 school year. (Modified for FY 2010 Guidance)

I-27. With respect to the use of FY 2009 SIG funds, is an SEA obligated to ensure that its LEAs spend only ARRA SIG funds, and not SIG funds made available through the regular FY 2009 appropriation, pursuant to the flexibility in the Consolidated Appropriations Act, 2010?

No. Although the flexibility in the Consolidated Appropriations Act, 2010, initially applied only to FY 2009 ARRA SIG funds and FY 2010 SIG funds, and not to the regular $546 million FY 2009 SIG appropriation, the regular FY 2009 SIG funds become subject to the requirements applicable to FY 2010 SIG funds on October 1, 2010, which is when they become carryover funds. See GEPA section 421(b). In other words, beginning October 1, 2010, LEAs may use all FY 2009 SIG funds, including regular FY 2009 SIG funds as well as ARRA SIG funds, pursuant to the flexibility in the Consolidated Appropriations Act, 2010, consistent with the final requirements. To simplify SEA administration of the SIG program while ensuring compliance with the Consolidated Appropriations Act, 2010, the Department will consider LEAs' obligations of SIG funds in each State as a whole prior to October 1, 2010 to come from the State's allocation of FY 2009 ARRA SIG funds, which should be more than sufficient to cover those obligations in every State.

Note that this flexibility does not relieve an SEA or LEA from its obligations with respect to tracking and reporting on the use of ARRA funds.

I-28. May an SEA allocate its FY 2009 ARRA SIG funds before its FY 2009 SIG regular funds or must it combine all its SIG funds and allocate them simultaneously? If an SEA may allocate its FY 2009 ARRA SIG funds first, does the SEA need to require its LEAs to submit separate applications—one for the FY 2009 ARRA SIG funds and one for the FY 2009 SIG regular funds?

An SEA has flexibility to determine how FY 2009 regular SIG funds and ARRA SIG funds are awarded, but is required to separately track and report on the award of ARRA SIG funds. Accordingly, the SEA may wish to structure its award procedures to facilitate meeting this requirement. For example, it may be easier to use ARRA SIG funds primarily for awards to larger LEAs with more sophisticated accounting systems.

I-29. May an SEA allocate funds it reserves under section 1003(a) of the ESEA along with section 1003(g) funds in making SIG grant awards to its LEAs in order to increase the total amount available to implement the SIG program?

Yes, an SEA may allocate funds it reserves under section 1003(a) of the ESEA along with section 1003(g) (SIG) funds in making SIG grant awards to its LEAs in order to increase the total amount available to implement the SIG program. However, there are three issues to keep in mind if an SEA decides to combine section 1003(a) and section 1003(g) funds. First, section 1003(a) funds may be awarded only to participating Title I schools that have been identified for improvement, corrective action, or restructuring. However, an SEA may request a waiver from the Department that would permit its LEAs to use section 1003(a) funds in Title I schools that are no longer in improvement because they are implementing either the turnaround model or the restart model and are implementing the school improvement timeline waiver available to schools implementing those SIG models. Second, the SEA must ensure that those funds are expended consistent with the SIG final requirements. With respect to Tier I and Tier II schools, therefore, section 1003(a) funds would be able to be used only to implement one of the four school intervention models. And third, an SEA that has obtained a waiver to extend the period of availability of FY 2009 SIG funds would likely want to request a waiver to extend the period of availability of FY 2009 section 1003(a) funds in order to make the period of availability for the section 1003(a) funds commensurate with the period of availability for the SIG funds.

Note that if an SEA wishes to award section 1003(a) funds so that a Tier I or Tier II school that will not receive SIG funds will be able to use section 1003(a) funds to implement one of the school intervention models consistent with the SIG final requirements, the SEA might want to request, with respect to its section 1003(a) funds, each of the waivers the SEA has received with respect to its SIG funds—*i.e.*, the waiver to extend the period of availability of the funds, the waiver for a targeted assistance school to operate a schoolwide program, and the school improvement timeline waiver. These waivers would help ensure that a school implementing a school intervention model using section 1003(a) funds is treated in a manner consistent with schools that are using SIG funds to implement the interventions. (Modified for FY 2010 Guidance)

I-30. What should an SEA consider in determining whether a particular use of SIG funds proposed by an LEA for a Tier I or Tier II school it commits to serve is allowable?

All of the SIG funds an LEA uses in a Tier I or Tier II school must be used to support the LEA's implementation of one of the four school intervention models, each of which represents a comprehensive approach to addressing the particular needs of the students in a school as identified through the LEA's needs assessment. Accordingly, in determining whether a particular proposed use of SIG funds is allowable, an SEA should consider whether the proposed use is directly related to the full and effective implementation of the model selected by the LEA, whether it will address the needs identified by the LEA, and whether it will advance the overall goal of the SIG program of improving student academic achievement in persistently lowest-achieving schools. In addition, in accordance with general cost principles governing the SIG program, an SEA must ensure that a proposed use of funds is reasonable and necessary. Further, an SEA must consider whether the proposed use of SIG funds would run afoul of the "supplement not supplant" requirement— *i.e.*, for a school operating a schoolwide program, the school must receive all of the non-Federal funds it would have received if it were not operating a schoolwide program, including all non-Federal funds necessary for the operation of the school's basic educational program.

For example, if an LEA proposes to use SIG funds to reduce class size in a Tier I or Tier II school, an SEA seeking to determine whether such a use of SIG funds is permissible should consider the factors discussed above. One way an SEA might do this would be to ask the following questions:

(1) whether class-size reduction is directly related to, as well as reasonable and necessary for, the full and effective implementation of the selected model, including whether it is directly related to, and reasonable and necessary for, implementing activities required or permitted under the model; (2) whether, through its needs assessment, the LEA identified a specific need or needs that can be addressed through class-size reduction; (3) whether class-size reduction represents a meaningful change that could help improve student academic achievement from prior years (and is not, for example, just intended to reverse increases in class size made by the LEA because of recent budget cuts); (4) whether the specific class-size reduction proposed is supported by research indicating that, in fact, it will help improve academic achievement; and (5) whether the proposed class-size reduction represents a significant reform that goes beyond the basic educational program of the school, including whether the class-size reduction would exceed minimal requirements set by state or local law or policy. If the answer to any of these questions is no, then an SEA using this process to review the proposed use of SIG funds to support class-size reduction would determine that the proposed use is not permissible.

J. PRE-IMPLEMENTATION*

(*Section J from the FY 2009 Guidance, "SIG, Race to the Top, and the State Fiscal Stabilization Fund," has been removed and replaced with this new Section J for FY 2010.)

J-1. May an LEA use FY 2010 and/or FY 2009 carryover SIG funds for "pre-implementation"?

Yes. Carrying out SIG-related activities during a "pre-implementation" period enables an LEA to prepare for full implementation of a school intervention model at the start of the 2011–2012 school year. To help in its preparation, an LEA may use FY 2010 and/or FY 2009 carryover SIG funds in its SIG schools after the LEA has been awarded a SIG grant for those schools based on having a fully approvable application, consistent with the SIG final requirements. As soon as it receives the funds, the LEA may use part of its first-year allocation for SIG-related activities in schools that will be served with FY 2010 and/or FY 2009 carryover SIG funds. (New for FY 2010 Guidance)

J-2. What are examples of SIG-related activities that may be carried out in the 2010–2011 school year in preparation for full implementation in the 2011–2012 school year?

This section of the guidance identifies possible activities that an LEA may carry out using SIG funds in the spring or summer prior to full implementation. The activities noted should not be seen as exhaustive or as required. Rather, they illustrate possible activities, depending on the needs of particular SIG schools:

- **Family and Community Engagement:** Hold community meetings to review school performance, discuss the school intervention model to be implemented, and develop school improvement plans in line with the intervention model selected; survey students and parents to gauge needs of students, families, and the community; communicate with parents and the community about school status, improvement plans, choice options, and local service providers for health, nutrition, or social services through press releases, newsletters, newspaper announcements, parent outreach coordinators, hotlines, and direct mail; assist families in transitioning to new schools if their current school is

implementing the closure model by providing counseling or holding meetings specifically regarding their choices; or hold open houses or orientation activities specifically for students attending a new school if their prior school is implementing the closure model.

- **Rigorous Review of External Providers:** Conduct the required rigorous review process to select a charter school operator, a CMO, or an EMO and contract with that entity (see C-5); or properly recruit, screen, and select any external providers that may be necessary to assist in planning for the implementation of an intervention model (see H-19a).

- **Staffing:** Recruit and hire the incoming principal, leadership team, instructional staff, and administrative support; or evaluate the strengths and areas of need of current staff.

- **Instructional Programs:** Provide remediation and enrichment to students in schools that will implement an intervention model at the start of the 2011-2012 school year through programs with evidence of raising achievement; identify and purchase instructional materials that are research-based, aligned with State academic standards, and have data-based evidence of raising student achievement; or compensate staff for instructional planning, such as examining student data, developing a curriculum that is aligned to State standards and aligned vertically from one grade level to another, collaborating within and across disciplines, and devising student assessments.

- **Professional Development and Support:** Train staff on the implementation of new or revised instructional programs and policies that are aligned with the school's comprehensive instructional plan and the school's intervention model; provide instructional support for returning staff members, such as classroom coaching, structured common planning time, mentoring, consultation with outside experts, and observations of classroom practice, that is aligned with the school's comprehensive instructional plan and the school's intervention model; or train staff on the new evaluation system and locally adopted competencies.

- **Preparation for Accountability Measures:** Develop and pilot a data system for use in SIG-funded schools; analyze data on leading baseline indicators; or develop and adopt interim assessments for use in SIG-funded schools.

As discussed in F-4, in general, SIG funds may not be used to supplant non-Federal funds, but only to supplement non-Federal funding provided to SIG schools. In particular, an LEA must continue to provide all non-Federal funds that would have been provided to the school in the absence of SIG funds. This requirement applies to all funding related to full implementation, including pre-implementation activities. (New for FY 2010 Guidance)

J-3. When may an LEA begin using FY 2010 and/or FY 2009 carryover SIG funds to prepare for full implementation of an intervention model in the 2011–2012 school year?

An LEA may begin using FY 2010 and/or FY 2009 carryover SIG funds after the SEA has awarded the LEA a SIG grant based on the LEA's having met all requirements for having a fully approvable SIG application, including conducting a needs assessment and identifying the model that will be implemented in each school the LEA will serve with SIG funds. (New for FY 2010 Guidance)

J-4. Is there a limit on the amount of SIG funds that an LEA may spend during the pre-implementation period that begins when it receives FY 2010 and/or FY 2009 carryover SIG funds?

There is no specific limit on the amount of SIG funds that an LEA may spend during pre-implementation. However, funds for activities that are designed to prepare for full implementation in the 2011–2012 school year come from the LEA's first-year SIG grant, which may be no more than $2 million per school being served with SIG funds. Therefore, the LEA needs to be thoughtful and deliberate when developing its budget and should consider, at a minimum, the following:

- SIG funds awarded for the first year must cover full and effective implementation through the duration of the 2011–2012 school year, in addition to preparatory activities carried out during the pre-implementation period.

- All activities funded with SIG funds must be reasonable and necessary, directly related to the full and effective implementation of the model selected by the LEA, address the needs identified by the LEA, and advance the overall goal of the SIG program of improving student academic achievement in persistently lowest-achieving schools (see also I-30).

(New for FY 2010 Guidance)

Staffing

J-5. May SIG funds be used to recruit and hire the incoming principal and leadership team, who will begin planning for full implementation in the 2011–2012 school year?

Yes. Once it receives FY 2010 and/or FY 2009 carryover SIG funds, an LEA may use those funds to recruit and hire the incoming principal and leadership team so that they may begin planning for full and effective implementation of one of the four intervention models at the beginning of the 2011–2012 school year. However, an LEA that will be bringing on a new principal should be sure to consider and address the following issues with respect to State and local laws and requirements:

- the authority of the incoming principal in relation to the current-year principal; and
- the timeframe within which the incoming principal may make human resource decisions regarding current and newly recruited school staff. (New for FY 2010 Guidance)

J-6. May SIG funds be used to continue paying unassigned teachers who have been removed from the classroom?

No, SIG funds may not be used to continue paying unassigned teachers who have been removed from the classroom and are not participating in activities to prepare their school for full implementation of a school intervention model. According to Office of Management and Budget Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments* (2004) (OMB Circular A-87), Attachment A, C.3.a, "a cost may only be charged to a Federal program *in accordance with relative benefits received*" (emphasis added). Continuing to pay unassigned teachers who have been removed from the classroom would not provide any benefits to improve the academic achievement of students through SIG funds. Thus, SIG funds may not be allocated for this purpose. (New for FY 2010 Guidance)

J-7. May an LEA use SIG funds to buy out the remainder of the current principal's contract?

No, an LEA may not use SIG funds to buy out the remainder of the current principal's contract. As noted above (see J-6), in accordance with OMB Circular A-87, Attachment A, C.3.a, "a cost may only be charged to a Federal program in accordance with relative benefits received." Although a principal may need to be replaced in order to fully implement a SIG intervention model, buying out the remainder of the current principal's contract would not provide any benefits to improve the academic achievement of students and, therefore, SIG funds may not be allocated for this purpose. (New for FY 2010 Guidance)

Development of External Partnerships

J-8. For a school implementing the restart model, may an LEA use SIG funds to conduct the rigorous review process required to select a charter school operator, a CMO, or an EMO?

Yes, an LEA may use SIG funds to conduct the required rigorous review process for selecting a charter school operator, CMO, or EMO to implement the restart model, and to contract with the selected entity. Conducting the rigorous review process during pre-implementation should enable the LEA to ensure that the charter school operator, CMO, or EMO it selects to implement the restart model will be ready to begin full implementation by the start of the 2011–2012 school year. (See C-5.)

J-9. May an LEA use SIG funds to hire external providers to assist in planning for and carrying out activities necessary for full implementation of a school intervention model in the following year?

Yes, an LEA may use SIG funds to hire external providers to assist in planning for and carrying out activities necessary for full implementation of a school intervention model in the following year. However, the LEA should bear in mind that the SIG funds it is awarded for the first year of implementation must fund both activities carried out during pre-implementation and full and effective implementation for the duration of the following school year. Therefore, the LEA should be careful in using its SIG funds for activities such as hiring external providers for planning purposes to ensure that it has sufficient funds to fully implement its intervention models.

Additionally, an LEA should be sure that all external providers with which it contracts are screened to ensure their quality. Like the rigorous review process for charter school operators, CMOs, and EMOs, screening other external providers enables an LEA to ensure that a provider with which it contracts is qualified to assist the LEA in making meaningful changes and implementing comprehensive reform in the Tier I and Tier II schools the LEA serves with SIG funds (see H-19a; I-24a). (New for FY 2010 Guidance)

Instructional Programs

J-10. May an LEA use SIG funds prior to full implementation to provide supplemental remediation or enrichment to students in schools that will begin full implementation of a SIG model at the beginning of the 2011–2012 school year?

Yes, an LEA may use SIG funds to provide supplemental remediation or enrichment services to students enrolled in a school that will begin full implementation of a SIG model at the beginning of the 2011–2012 school year. Within those schools, an LEA may use SIG funds, for example, for supplemental activities, including summer school for rising ninth-graders, designed to prepare low-achieving students to participate successfully in advanced coursework, such as AP or IB courses, early-college high schools, or dual enrollment in postsecondary credit-bearing courses; or to provide after-school tutoring for low-achieving students. Note that, to be supplemental, the remediation or enrichment supported with SIG funds must be in addition to what would otherwise be offered to students in the school (*e.g.*, SIG funds may not be used to support a program that would supplant a regular summer school program offered to all students). (New for FY 2010 Guidance)

Professional Development and Support

J-11. May an LEA use SIG funds to pilot an evaluation system for teachers and principals at schools receiving SIG funds to implement a transformation model?

Yes, an LEA may use SIG funds to pilot the rigorous, transparent, and equitable evaluation systems for teachers and principals that are required in schools implementing the transformation model. To meet the requirements of the transformation model, the pilot evaluation system must take into account data on student growth as a significant factor as well as other factors, such as multiple observation-based assessments of performance, on-going collections of professional practice reflective of student achievement, and high school graduation rates. The pilot evaluation system must also be designed and developed with teacher and principal involvement. Although an LEA might want to establish and implement a teacher and principal evaluation system that includes all teachers and principals within the LEA, SIG funds may not be used for district-wide activities. However, prior to launching a district-wide teacher and principal evaluation system, an LEA may use SIG funds to pilot the system for teachers and principals only at schools that are being served with SIG funds to ensure that the system is a useful tool that operates as intended.

Similarly, an LEA may use SIG funds to support the salaries of evaluators who, as part of the LEA's preparation to fully implement an intervention model, observe and evaluate teachers in schools that are receiving SIG funds to begin implementing an intervention model at the beginning of the 2011–

2012 school year. An LEA might also consider using SIG funds to provide additional training to the individuals who will be observing and evaluating teachers in schools receiving SIG funds. (New for FY 2010 Guidance)

Preparation for Accountability Measures

J-12. May an LEA use SIG funds to pay for a needs assessment in order to select appropriate school intervention models for inclusion in the LEA's SIG application?

No, an LEA may not use SIG funds to pay for a needs assessment in order to determine which model to implement in particular schools prior to submitting its SIG application. As specified in J-2, an LEA may use SIG funds only after the LEA has received a grant award of FY 2010 or FY 2009 carryover SIG funds based on the LEA's fully approvable SIG application.

An SEA may use its section 1003(a) funds or part of the SIG funds it may reserve for administration, evaluation, and technical assistance expenses to support a needs assessment in its LEAs. (New for FY 2010 Guidance)

Other

J-13. May an LEA use SIG funds during pre-implementation in a targeted assistance school that will fully implement a school intervention model through a schoolwide waiver beginning in the 2011–2012 school year?

Yes. As discussed in F-1, the Secretary is inviting requests for waivers to enable a Tier I or Tier II Title I participating school operating a targeted assistance program to operate a schoolwide program so that it can implement a school intervention model. A targeted assistance school that receives FY 2010 or FY 2009 carryover SIG funds to implement a model beginning in the 2011–2012 school year would need to become a schoolwide school, through the schoolwide waiver, beginning in the 2011–2012 school year. Although the school would remain a targeted assistance school throughout the 2010–2011 school year, the Department will construe the schoolwide waiver to apply to SIG-related activities carried out in the 2010–2011 school year using SIG funds if those activities are designed to prepare the LEA to implement an intervention model fully and effectively in the 2011–2012 school year. (New for FY 2010 Guidance)

J-14. May an LEA use SIG funds for minor remodeling of school facilities to enable the use of technology?

Yes, an LEA may use SIG funds during pre-implementation to pay for the costs of minor remodeling that is necessary to support technology if the costs are directly attributable to the implementation of a school intervention model and are reasonable and necessary.

The overall goal of the SIG program is to improve student academic achievement in persistently lowest-achieving schools through the implementation of one of four school intervention models. If an LEA determines, with an eye toward the ultimate goal of improving student achievement, that the use of new technology is essential for the full and effective implementation of one of the

models, it may deem the costs associated with that new technology a reasonable and necessary use of SIG funds. (New for FY 2010 Guidance)

K. REPORTING METRICS

K-1. May an SEA add to the list of leading indicators in the final requirements?

Yes. However, an SEA may not deny a request for renewal of a SIG grant with respect to a school that fails to make progress on any such additional leading indicators if the school has met its LEA's achievement goals and made progress on the leading indicators listed in the final requirements.

K-2. Which of the reporting metrics are new for the SIG program and must be annually reported by an SEA receiving a SIG grant?

The following reporting metrics are new for the SIG program and must be annually reported by school in each SEA receiving a SIG grant:

(1) Which intervention the school used (*i.e.*, turnaround, restart, school closure, or transformation);

(2) Number of minutes within the school year;

(3) Average scale scores on State assessments in reading/language arts and mathematics, by grade, for the "all students" group, for each achievement quartile, and for each subgroup;

(4) Number and percentage of students completing advanced coursework (*e.g.*, AP/IB), early-college high schools, or dual enrollment classes; and

(5) Teacher attendance rate.

See generally section III.A of the final requirements.

K-3. For which schools must an SEA report on the metrics that are new for the SIG program?

An SEA must report on the metrics that are new for the SIG program for each Tier I and Tier II school in the State that is served with SIG funds in the year for which the SEA is reporting. See section III.A.3 of the final requirements. Note, however, that, for a Tier I or Tier II school that is subject to school closure, the SEA need only report the identity of the school and the intervention used (*i.e.*, school closure) (see section III.A.4 of the final requirements). An SEA is not obligated to report on the metrics for Tier III schools that are served with SIG funds.

K-4. For which metrics must an SEA report "baseline data" for the school year prior to the implementation of one of the four interventions?

An SEA must report "baseline data" for the school year prior to the implementation of one of the four interventions (*e.g.*, for the 2010–2011 school year for schools that will begin to fully implement an intervention model in the 2011–2012 school year) on each of the new SIG metrics for which it

has the data available. See section III.A.4 of the final requirements. This may require an LEA to conduct new analyses or calculations if it does not already have the data in the precise form requested for SIG reporting purposes to provide to the SEA. For example, it is possible that an LEA will not have a document stating specifically the number of minutes in the school year in each of its schools. However, an LEA should have access to a school's calendar, and be able to calculate the number of minutes in the year based on that calendar to provide the appropriate baseline data to the SEA, which will, in turn, report the data to the Department.

The Department recognizes that some data simply may not be available, even through an analysis of various sources. An SEA is not obligated to provide baseline data with respect to data that simply are not available from any source. (Modified for FY 2010 Guidance)

K-5. How frequently must an SEA report on the SIG metrics?

An SEA must report on the metrics annually, with the first report providing baseline data and each subsequent report providing data based on the prior year of implementation of one of the four interventions. The SEA must provide such annual reports for each year for which the SEA allocates SIG funds under section 1003(g) of the ESEA. See section III.A.4 of the final requirements.

K-6. Will the Department provide other guidance about the process for submitting and the substance to be included in the required reports?

Yes. The Department will issue separate guidance to provide States with information regarding the specific process for submitting the required reports and the information to be contained in the reports.