

Version 2

## Federal School Improvement Grants

### Initial Summary Analysis of the U.S. Department of Education Notice of Proposed Requirements Published August 26, 2009

#### Introduction

Secretary of Education Arne Duncan published in the August 26, 2009, *Federal Register* a notice of proposed requirements for the School Improvement Grants program authorized by Section 1003(g) of the Elementary and Secondary Education Act (ESEA). The proposed requirements would govern grants to state educational agencies (SEAs) and sub-grants to local educational agencies (LEAs) with funds appropriated under the American Recovery and Reinvestment Act (ARRA) as well as the Fiscal Year 2009 appropriation. Funds from these two sources would be consolidated into a single fund totaling \$3.546 billion, which will be allocated to all states by formula based on state applications to the U.S. Department of Education (USED).

Under ESEA, SEAs receive funds to make grants to LEAs to support school improvement activities in Title I schools that have been identified for school improvement, corrective action, or restructuring. Ninety-five percent of the funds must be granted to LEAs by the state (with five percent retained at the state level), though some of these funds may be used by the SEA for direct services with agreement from the LEA. These school improvement funds are in addition to funds that states must set aside for parallel school improvement purposes (4% of the state grant under Part A of Title I) under Section 1003(a) of ESEA.

USED's notice seeks to transform nationwide our systems for intervening in the lowest performing schools. It establishes detailed requirements to guide these school improvement efforts, including defining significant interventions for the lowest performing schools and targeting funds accordingly. The notice does not focus on developing broader statewide systems of support or on integrating the School Improvement Grant requirements into such broader systems. Further, the notice focuses on turning around the lowest performing schools, but does not focus directly on state-to-district supports and interventions. States must wrestle with these and other issues as a matter of sound education policy.

Public comments on the notice are due to USED by September 25, 2009. The August 26 notice does not solicit state applications. There will be a subsequent notice inviting applications, likely in late fall 2009, either as part of or concurrent with the issuance of final requirements for the program.

#### Summary

**The August 26 notice on School Improvement Grants would require SEAs to target funds to LEAs with the greatest "need," in that they have the lowest performing schools as defined in the notice, and the strongest "commitment," in that they demonstrate fidelity to significant interventions prescribed in the notice and the capacity to carry out those interventions. The notice promotes a significant shift in philosophy regarding the use of School Improvement Grant funds, which can be summarized in several core points:**

- **Funds must be targeted to the lowest performing schools, which the notice defines in detailed terms;**

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- **Those schools must be the focus of significant interventions based on four options (turnaround, restart, closure, or transformation), which the notice defines in detailed terms;**
- **Those schools should be given significant, sufficient resources over several years to ensure their ability to implement reforms (rather than spreading funds across more schools);**
- **Funds should more fully target low-performing middle and high schools (as long as they are Title I-eligible even if they do not receive Title I funds);**
- **States should seek waivers from current No Child Left Behind (NCLB) requirements to promote this model for School Improvement Grants; and**
- **Schools receiving grant funds must be held to additional accountability requirements, including annual progress on student achievement and a number of new "leading indicators."**

**Full Analysis**

*The School Improvement Grant notice proposes to require SEAs to provide grants to LEAs for school improvement based on a simple equation: LEAs are to receive funds based on: (1) having the greatest need in terms of low performing schools; and (2) demonstrating the greatest commitment to significant, defined interventions and capacity to implement those interventions.*

With respect to "need," the notice proposes to require states to create three tiers of schools and includes provisions designed to target funds to the lowest performing 5% of Title I schools identified for school improvement, corrective action, or restructuring (Tier 1 schools), as well as middle and high schools with equivalent low-achievement levels that are eligible for, but do not receive, Title I funds (Tier 2 schools). Schools in Tiers 1 and 2 would be the focus of school improvement activities, with money targeted to those LEAs and schools with the greatest commitment and capacity for significant reform. LEAs would be required to use one of four intervention models in these schools receiving funds – turnaround, restart, closure, or transformation – and schools should receive significant funding over a three-year period to support those significant reforms. Finally, schools receiving funds must be held to additional accountability benchmarks regarding gains in student achievement and other "leading indicators." The sections below explain each of these core elements of the notice in greater detail.

**I. Need.**

The notice proposes to require SEAs to target LEAs and schools with the greatest "need" by requiring that SEAs identify three tiers of schools:

- **Tier 1 includes the state's lowest achieving 5% of Title I schools – or the five lowest achieving Title I schools (whichever is larger) – in improvement, corrective action, or restructuring, based on extremely low overall student achievement *and* "little or no progress," defined to mean that the school's gains on state math and reading/language arts assessments in the "all students" category**

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are less than the average gains of schools in the state. The SEA must set specific criteria and identify these schools.

- Tier 2 includes equally low achieving middle and high schools eligible for, but not receiving, Title I funds. (LEAs could include these schools at their option and would receive a waiver to permit them to do so. If included, the LEA would have priority for funding from the state.)
- Tier 3 includes the remaining Title I schools in school improvement, corrective action, or restructuring. States would be encouraged to prioritize among Tier III schools, as well.

An LEA must serve all Tier 1 schools unless it demonstrates it lacks sufficient capacity or school improvement funds to undertake one of the four prescribed intervention models summarized below in each Tier I school (e.g., if it shows it can best impact student achievement by concentrating resources in a subset of Tier 1 schools). Once an LEA has identified all Tier 1 schools it has the capacity to serve, it may also identify Tier 3 schools it will serve. An LEA with one or more Tier 1 schools may not apply only to serve Tier 3 schools.

If an SEA has insufficient funds to fund each LEA that submits an approvable application, the SEA must give priority to LEAs that apply to serve both Tier 1 and Tier 2 schools. Also, if an SEA has insufficient funds to allocate to each LEA with a Tier 1 or Tier 2 school to implement the specified interventions for those schools for three years, the SEA may take into account the distribution of Tier 1 and Tier 2 schools among such LEAs to ensure that Tier 1 and Tier 2 schools throughout the state can be served.

## **II. Commitment**

The notice proposes to require SEAs to target LEAs and schools with the greatest "commitment" in the sense that the LEA commits to use one of four required interventions in targeted Tier 1 and Tier 2 schools and the LEAs demonstrates capacity and sufficient concentration of resources to implement the proposed interventions in all schools that the LEA proposes to serve. The four interventions are:

- Turnaround, which includes replacing the principal and at least 50% of school staff, adopting a new governance structure, and implementing a new or revised instructional program. A new governance structure might include hiring a turnaround leader reporting directly to the Superintendent or Chief Academic Officer or entering a contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability. The LEA would also be required to incorporate strategies to recruit, place, and retain effective staff; provide ongoing high-quality, job-embedded professional development; promote continuous use of student data (such as from formative, interim, and summative assessments) to meet the needs of individual students; revise schedules to increase instructional time for students and time for collaboration and professional development for staff; and provide appropriate social-emotional and community-oriented services and supports for students.
- Restart, which involves closing a school and reopening it under the management of a charter school operator or a charter or educational management organization;
- Closure, with students who attended the school reassigned to other schools in the LEA; and

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- Transformation, which is tightly defined to minimally includes the following four elements: (1) strategies to develop teacher and school leader effectiveness, including using evaluations based significantly on student growth to improve teacher and school leader performance and to reward and remove teachers and school leaders; removing the principal; providing professional development; and implementing strategies to recruit, place, and retain effective staff; (2) comprehensive instructional reform strategies, including using data to identify and implement research-based instructional programs and promoting continuous use of individualized student data to inform instruction; (3) extended learning time, including time for enhanced student learning and enrichment, teacher collaboration and planning, and mechanisms for family and community involvement; and (4) provision of operating flexibility for the school in implementing a comprehensive approach to improve student achievement, as well as providing ongoing technical assistance and support to the school.

The notice also includes additional proposed *permissible* activities under each of the four Transformation model areas, including, for example, under instructional reforms, increasing rigor by offering opportunities for advanced coursework in AP, IB, early college high schools, dual enrollment, or thematic learning academies, with appropriate supports for low-achieving students to take advantage of these programs; summer transition programs or freshman academies; and increasing graduation rates through credit-recovery programs and smaller learning communities. Similarly, the notice includes, as a permissible activity under the extended time and community involvement requirement, partnering with parents and community based organizations to meet students' social, emotional, and health needs.

Finally, under the proposed requirements, an LEA with nine or more Tier 1 and Tier 2 schools would not be able to implement any one of these four interventions in more than 50% of those schools.

The notice provides that in determining the strength of an LEA's commitment to implement these interventions, the SEA must consider, at a minimum, the extent to which the LEA's application demonstrates the LEA's efforts to—

- analyze the needs of its schools and match interventions to those needs;
- design the prescribed interventions;
- recruit, screen, and select external providers to ensure quality;
- embed the interventions in a longer-term plan to sustain achievement gains;
- align other resources with the interventions;
- modify its practices, if necessary, to enable it to effectively implement the interventions; and
- sustain the reforms after the funding period ends.

### **III. Funding**

The notice includes a complicated funding regime that distinguishes between the amounts that an LEA is eligible to receive and how it proposes to the SEA to use those funds at the school level. In essence, each LEA would propose two budgets to the SEA.

First, the amount of the grant that an LEA receives is based on the number of Title I schools in school improvement, corrective action, and restructuring that the LEA proposes to serve. This includes Tier 1 and Tier 3 schools, but not Tier 2 schools (which are only Title I *eligible*.) The LEA may receive between \$50k and \$500k per year for each such Title I school that the LEA proposes to serve. The notice

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also would require that the LEA receive a grant of \$500k per year for each Tier 1 school that will implement a turnaround, restart, or transformation model.

Second, the LEA must also propose, and the SEA may approve, uses of the grant funds at the school level without regard to these maximum and minimum amounts. Using the LEA's overall proposed grant pool of funds (based on its Title I schools identified for improvement, corrective action, or restructuring that it proposes to serve), the LEA is permitted (and encouraged) to adjust spending across its Tier 1, 2, and 3 schools – spending more on targeted Tier 1 schools and spending funds on Tier 2 schools (through a waiver, even though such schools do not count in the initial allocation of funds to the LEA), with lesser amounts spent on Tier 3 schools. School allocations should be based on a budget sufficient to implement one of the four interventions in each Tier 1 and Tier 2 school being targeted, as well as for serving participating Tier 3 schools. In sum, the LEA may use far more than \$500k per year in each of its targeted Tier 1 and Tier 2 schools.<sup>1</sup>

Finally, the Secretary will waive limits on fund availability to make the funds available for three years, with funds to be released one year at a time based on the progress of funded schools. This means that Title I schools in school improvement, corrective action, or restructuring make LEAs eligible for up to \$500k per year *for three years*, or \$1.5M over three years, with actual spending considerably higher in targeted Tier 1 or Tier 2 schools.

#### **IV. LEA Applications**

The notice includes requirements for LEA applications to SEAs that focus on selection of schools consistent with the prescribed Tiers, the capacity of the LEA, and the adequacy of its budget to implement the proposed interventions, particularly including the four prescribed interventions for Tier 1 and Tier 2 schools. Specifically, LEA applications must address the requirements summarized above regarding Tiers, schools to be served, prescribed interventions, and their capacity to implement them. The budget must be sufficient to implement prescribed interventions in selected Tier 1 and Tier 2 schools proposed to be served, as well as providing services to participating Tier 3 schools. SEAs may require additional information in the application.

#### **V. SEA Responsibilities**

The notice also addresses the statutory role of the SEA to administer the School Improvement Grants program; make funding decisions consistent with the regulations; develop criteria for its Tier 1 schools and use those criteria to identify those schools; and oversee LEA implementation of the program and

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<sup>1</sup> The notice includes several examples of how an SEA might determine the amount of the grant for hypothetical LEAs and how the LEAs might then decide to use the funds. In one example, an LEA has 10 Title I schools in improvement, corrective action, or restructuring: three are Tier 1 schools and the rest are Tier 3 schools. The LEA also has one Tier 2 school. The LEA and SEA agree that the LEA has the capacity to serve all of these schools. The maximum grant that the LEA may receive per year is \$5 million (\$500k x 10 Title I schools to be served). Based on the LEA's proposed budget and capacity, the SEA awards the LEA a grant totaling \$4,150,000 per year. In spending the school improvement funds, the LEA, consistent with its budget submission to the SEA, uses \$1.5 million per year in one Tier 1 school; \$1 million per year in the Tier 2 school; \$750k per year in each of the two remaining Tier 1 schools; \$50k per year in each of two Tier 3 schools; and \$10k per year in each of the remaining five Tier 3 schools. If progress is shown, this budget would presumably be reallocated for years two and three. Other examples make clear that SEAs have some room to make judgments on grant size – and LEAs have similar room for judgments on use of funds among the schools -- based on budget and capacity.

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accountability for funded schools. SEAs must submit an application to USED addressing the SEA's role in identifying Tier 1 and Tier 2 schools in the state; establishing criteria on the overall quality of LEA applications and on LEA capacity; allocating funds to LEAs; providing technical assistance to LEAs and monitoring their implementation and the progress of participating schools; and holding each Tier 1 and Tier 2 school accountable for achievement goals and other indicators on an annual basis.

The SEA reviews and approves LEA applications, including:

- ensuring LEA compliance with requirements, including LEA budget and capacity to implement one of the four prescribed interventions in Tier 1 and Tier 2 schools to be served. (If LEA capacity is lacking, the SEA would adjust the size of the grant.);
- considering the quality of the application, including LEA analysis of needs of each school and matching of proposed interventions to those needs, and whether interventions are part of a long-term plan to sustain gains in student achievement and will be sustained after the funding period ends.

The SEA may decide not to approve all schools included in an LEA application based on capacity and budget issues. It must apportion the funds to LEAs over three years.

USED is encouraging SEAs to allocate school improvement funds under the separate authority in section 1003(a) of ESEA to Tier 1 and Tier 2 schools to support LEA and school ability to implement the interventions and to design a multi-pronged strategy for changing the school culture and reforming the lowest achieving schools.

SEAs are also encouraged to begin work with stakeholders to lay the foundation for this program, including quickly defining Tier 1 and Tier 2 schools; reviewing and eliminating barriers to reform; diagnosing causes of failure; developing or refining processes to recruit, screen, and select necessary outside partners and providers; fairly and rigorously evaluating teachers and leaders in the lowest performing schools; and recruiting and training turnaround and transformation school leaders and teachers.

**VI. Accountability**

The notice proposes to hold funded schools accountable for progress, above and beyond AYP. (In fact, the notice invites SEAs to propose to restart AYP timelines for targeted Tier 1 schools.) The notice would require each LEA to establish three-year student achievement goals in math and reading/language arts. The initial grant is renewed annually (within the three-year project limit) if the LEA demonstrates that its Tier 1 and Tier 2 schools are meeting or are on track to meet the student achievement goals for all children in the school and for each subgroup identified in Title I, ESEA, *and* are making progress on "leading indicators" of school reform specified in the notice. The proposed "leading indicators" include items such as AYP status; achievement gains by LEP students; graduation and dropout rates; student attendance; students enrolled in advanced course work; college enrollment rates; number of instructional minutes; and distribution of teachers by performance level under the LEA's teacher evaluation system. The notice does not prescribe how to weigh these indicators or specific annual targets for them, presumably leaving those determinations to the SEA.

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SEAs and LEAs need to report school level data relating to the use of grant funds and the impact of interventions, including progress on student achievement data and school reform indicators. SEAs and LEAs must also participate in a USED evaluation.

**VII. Flexibility**

The notice proposes several significant elements of flexibility to facilitate implementation of the proposed policies through USED's "waiver" authority:

- SEAs are encouraged to seek a waiver to permit use of funds by LEAs in Tier II schools (i.e., low-performing middle and high schools that are Title I eligible but do not receive Title I funds).
- SEAs may award funds to continue implementation of a turnaround, restart, or transformation intervention model initiated by the LEA in a Tier 1 school within the last two years (rather than disturbing that intervention).
- An SEA may seek a waiver to permit a school that implements a turnaround or restart model to "start over" in the school improvement timeline under ESEA while continuing to receive school improvement grant funds. For example, under the turnaround or restart model, a school in restructuring status would exit from that status and would not need to provide public school choice or supplemental educational services.
- An SEA may seek a waiver to enable Tier I schools that operate targeted assistance programs to operate schoolwide programs in order to implement the proposed intervention.
- As noted above, the Secretary will waive limits on the availability of funds to permit their use over a three-year project period.

**Conclusion**

As noted above, USED's notice on School Improvement Grants seeks to leverage \$3.5 billion in federal school improvement funds through ARRA (along with Fiscal Year 2009 funds) to transform nationwide our systems for intervening in the lowest performing schools. It is designed to drive concentration of substantial funds over a three year period to the lowest achieving schools, including Title I-eligible middle and high schools, as opposed to spreading those funds across schools in the improvement pipeline. It also takes a prescriptive approach in identifying eligible interventions for the lowest performing schools. And it is left to states to integrate these targeted interventions into a broader statewide system of supports, and to focus on district capacity. Finally, while this notice governs current ARRA and Fiscal Year 2009 School Improvement funds, it is likely that the focus on supports and interventions for the lowest performing schools will continue to receive significant attention and funding as the Administration moves forward – in the Fiscal Year 2010 budget and beyond, as well as in ESEA reauthorization.

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If you have questions about USED's ARRA School Improvement Grant notice, or other ARRA issues, please contact **Scott Palmer**, Managing Partner, at [scott.palmer@educationcounsel.com](mailto:scott.palmer@educationcounsel.com) or (202) 545-2916; **Reg Leichty**, Partner, at [reg.leichty@educationcounsel.com](mailto:reg.leichty@educationcounsel.com) or (202) 545-2918; or **Steve Winnick**, Senior Counsel, at [steve.winnick@educationcounsel.com](mailto:steve.winnick@educationcounsel.com) or (202) 545-2913. General information is also available at [www.EducationCounsel.com](http://www.EducationCounsel.com)