

## Federal School Improvement Grants

### Initial Summary Analysis of the U.S. Department of Education Notice of Final Requirements And Application Published December 10, 2009

#### Introduction

Secretary of Education Arne Duncan posted on the U.S. Department of Education's (USED) website on December 3, 2009, a notice of final requirements and an application form for the School Improvement Grants program authorized by Section 1003(g) of the Elementary and Secondary Education Act (ESEA). The requirements 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 have been consolidated into a single fund totaling \$3.546 billion, which will be allocated to all states by formula based on state applications to USED. The notice of final requirements was published in the *Federal Register* of December 10, 2009. SEA applications for funding are due February 8, 2010.

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 is awarding immediately to SEAs (without waiting for state applications) the full amount (5% of the state grant) each state may reserve from its FY 2009 grant for state administration, technical assistance, and evaluation. These funds are made available for such activities as preparing the state application and working with LEAs to develop their applications, including, for example, disseminating model processes for assessing needs and screening partner organizations; initiating state or regional efforts to recruit and develop principals to serve in the persistently lowest achieving schools; attracting education and charter management organizations to the state to restart persistently lowest achieving schools; and developing sample competencies that LEAs can use to review staff to work in a turnaround environment. An SEA also may allocate some of these funds to LEAs to help those LEAs prepare to implement interventions in their Tier I and Tier II schools.

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 persistently 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 persistently lowest performing schools, but does not focus directly on state-to-district supports and

interventions, nor does it focus on providing support to strengthen local district capacity to administer a system of supports for its schools. States and districts must wrestle with these and other issues as a matter of sound education policy.

### Summary

The final notice on School Improvement Grants requires SEAs to target funds to LEAs with the greatest “need,” in that they have the persistently 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 embodies 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 persistently lowest performing schools, which the notice defines in detailed terms;
- 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 must be given significant, sufficient resources (over up to three years if requested), 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, including provisions encouraging states or local educational agencies to seek a waiver to permit use of funds in the persistently lowest performing schools over a 3-year period (through September 2013, compared to September 2011 absent a waiver); 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 requires 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 persistently 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 requires states to create three tiers of schools and includes provisions designed to target funds to (1) “Tier I Schools,” consisting of (a) the lowest performing 5% of Title I schools identified for school improvement, corrective action, or restructuring or (b) Title I high schools in school improvement, corrective action, or restructuring with a graduation rate below 60% for a number of years; and (2) “Tier II Schools,” consisting of middle and high schools with equivalent low-achievement levels or high schools with equivalent graduation rates over a number of years that are eligible for, but do not receive, Title I funds. Schools in Tiers I and II must 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 are 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 up to 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 requires SEAs to target LEAs and schools with the greatest “need” by requiring that SEAs identify three tiers of schools:

- Tier I includes (1) the state’s persistently 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 are less than the average gains of schools in the state. The SEA must set specific criteria and identify these schools; and (2) Title I high schools in improvement, corrective action, or restructuring with a graduation rate (based on the Title I cohort graduation rate definition) below 60% for a number of years.
- Tier II includes equally low achieving middle and high schools eligible for, but not receiving, Title I funds and high schools eligible for, but not receiving, Title I funds that have a graduation rate below 60% for a number of years. (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.)<sup>1</sup>

- Tier III includes the remaining Title I schools in school improvement, corrective action, or restructuring. States are encouraged to prioritize among Tier III schools, as well.

An LEA must serve all Tier I 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 I schools). Once an LEA has identified all Tier I schools it has the capacity to serve, it may also identify Tier III schools it will serve. An LEA with one or more Tier I schools may not apply only to serve Tier III 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 I and Tier II schools. Also, if an SEA has insufficient funds to allocate to each LEA with a Tier I or Tier II school to implement the specified interventions for those schools for up to three years, the SEA may take into account the distribution of Tier I and Tier II schools among such LEAs to ensure that Tier I and Tier II schools throughout the state can be served. Also, the notice adds new requirements that if not every Tier I school in the state is served with FY 2009 funds under this program, the SEA must carry over 25% of its FY 2009 allocation and award the funds in combination with 2010 funds consistent with the requirements, unless the state does not have sufficient funds under the program to serve all Tier I schools in the state. (The notice also permits a state that serves each Tier I in the state with FY 2009 funds under the program to carry over 25% of its FY 2009 allocation to FY 2010.) The notice also provides that an SEA participating in USED's differentiated accountability pilot must ensure that funds under this program are used in a Tier I or Tier II school.

## II. Commitment

The notice requires 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 I and Tier II schools and the LEA demonstrates capacity and sufficient concentration of resources to implement the proposed interventions in all schools that the LEA proposes to serve. USED has adopted uniform definitions of these interventions for this program, the State Fiscal Stabilization Fund, and the Race to the Top program. The four interventions are:

---

<sup>1</sup> The SEA in its application must assure that any LEA serving Tier II schools through a waiver must provide to the school all of the state and local funds it would have received in the absence of being served with funds under this program.

- Turnaround, which includes replacing the principal and at least 50% of school staff (using locally adopted competencies to screen current staff and hire new staff); giving the new principal sufficient operational flexibility to fully implement a comprehensive approach to improving student achievement and graduation rates; adopting a new governance structure; and implementing a new or revised research-based and vertically aligned 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
- Transformation, which is tightly defined to minimally include the following four elements: (1) strategies to develop teacher and school leader effectiveness, including using rigorous, transparent, and equitable 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) increasing learning time and creating community-oriented schools, 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 *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; early warning systems; advance STEM

course work; and increasing graduation rates through credit-recovery programs and smaller learning communities. Similarly, the notice includes, as a permissible activity under the increasing learning time and community involvement requirement, partnering with parents and community based organizations to meet students' social, emotional, and health needs.

Finally, an LEA with nine or more Tier I and Tier II schools would not be able to implement the transformation model intervention 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 and implement the prescribed interventions;
- recruit, screen, and select external providers to ensure quality;
- 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 I and Tier III schools, but not Tier II 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. (Note, however, that under the FY 2010 Consolidated Appropriations Act - signed into law after the final notice - SEA school improvement sub-grants to LEAs for eligible schools may not exceed \$2 million.) The notice also requires that the LEA receive a grant of \$500k per year for each Tier I school that will implement a turnaround, restart, or transformation model, unless the SEA determines that fewer funds are needed to implement the selected intervention.

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 I, II, and III schools – spending more on

targeted Tier I schools and spending funds on Tier II 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 III schools.<sup>2</sup> School allocations should be based on a budget sufficient to implement one of the four interventions in each Tier I and Tier II school being targeted, as well as for serving participating Tier III schools. In sum, the LEA may use far more than \$500k per year in each of its targeted Tier I and Tier II schools.<sup>3</sup> The application provides that the LEA also may request funding for LEA-level activities that will support implementation of school intervention models in Tier I and Tier II schools.

Finally, the Secretary will waive limits on fund availability to make the funds available for up to 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 I or Tier II schools.

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

To be eligible, an LEA must have one or more schools that qualify under the state's definition of a Tier I or Tier III school. The notice includes requirements for LEA applications to SEAs (on forms developed by the SEA) 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 I and Tier II schools. Specifically, LEA applications must address the requirements summarized above regarding Tiers, schools to be served, including identifying each Tier I, Tier II, and Tier III school to be served and the intervention to be used in each served school, and their capacity and timeline to implement them. The budget must be sufficient to implement prescribed interventions in selected Tier I and Tier II schools proposed to be served, as well as providing services to participating Tier III schools. SEAs may require additional information in the application. The LEA application also must establish annual goals for student achievement and

---

<sup>2</sup> The notice provides that in allocating program funds for fiscal years subsequent to FY 2009, the SEA must exclude from consideration any Tier I or Tier II school previously funded under the program and implementing one of the four prescribed intervention models.

<sup>3</sup> The application 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 I schools and the rest are Tier III schools. The LEA also has one Tier II 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 I school; \$1 million per year in the Tier II school; \$750k per year in each of the two remaining Tier I schools; \$50k per year in each of two Tier III schools; and \$10k per year in each of the remaining five Tier III 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.

leading indicators (described below) for each Tier I and Tier II school to be served and include information on SEA waiver requests it intends to implement (see below).

## **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; and oversee LEA implementation of the program and accountability for funded schools. SEAs must submit an application to USED identifying, by LEA, each Tier I, Tier II, and Tier III school in the state (to do so in effect requires the state to develop more specific criteria for its Tier I and Tier II schools, taking into account achievement of the "all students" group on state assessments and lack of progress on the assessments over a number of years); establishing criteria to be used in assessing the quality of LEA applications in analyzing the needs of and selecting an intervention for each Tier I and Tier II school and the LEA budget and capacity to design, implement, and sustain the selected options; addressing how it will assess whether an LEA lacks capacity to implement an appropriate intervention model in each Tier I school and what it will do if the LEA has more capacity than it claims; describing priorities if funds are inadequate to serve all eligible schools and the process and timeline for approving LEA applications and how it will review LEA annual goals and monitor their implementation and the progress of participating schools; and holding each Tier I and Tier II school accountable for achievement goals and other indicators on an annual basis. The SEA application also must indicate if the SEA intends to take over any Tier I or Tier II schools and address what models will be used if the state provides direct services to Tier I or Tier II schools. The notice requires the SEA to consult with its Committee of Practitioners established under the ESEA on rules and policies in the application before submitting its application to USED.

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 I and Tier II 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 the LEAs capacity to design, implement, and sustain the interventions 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 may apportion the funds to LEAs over a period of up to three years, assuming it applies for and receives a waiver to do so.

The notice provides that an SEA may, consistent with state law, take over an LEA or specific Tier I or Tier II schools in order to implement the prescribed interventions, but that, absent such a take-over, an SEA may not require an LEA to implement a particular model in one or

more schools. It also requires the SEA to post on its website, within 30 days of awarding grants to LEAs under the program, all final LEA applications as well as a summary of grants.

## **VI. Accountability**

The notice holds funded schools accountable for progress, separate and apart from AYP. (In fact, the notice invites SEAs to propose to restart AYP timelines for targeted Tier I schools.) The notice requires each LEA to establish annual 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 I and Tier II 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 “leading indicators” include items such as AYP status; graduation and dropout rates; student attendance; students enrolled in advanced course work; college enrollment rates; number of minutes within the school year; 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.

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 includes 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.

The notice provides that LEAs must indicate which waivers obtained by the state they will implement and that LEAs may apply for these waivers if the SEA does not. Under ESEA waiver provisions, a waiver request by an LEA must be submitted through the SEA, which may comment on the request.

## 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 persistently 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 persistently 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 persistently 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.

EducationCounsel provides education strategy, policy, advocacy, and legal support to state and national education leaders across the country. Our goal is to help transform education policies to help dramatically improve student achievement and close achievement gaps. This summary and analysis is provided for policy planning purposes, and does not constitute specific legal advice.

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 Leichy**, Partner, at [reg.leichy@educationcounsel.com](mailto:reg.leichy@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)