



777 6th Street NW  
Suite 500  
Washington DC 20001  
tel (202) 618-3900  
fax (202) 478-1804  
[www.pennhillgroup.com](http://www.pennhillgroup.com)

## MEMORANDUM

TO: **Interested Parties**  
FROM: **Penn Hill Group**  
DATE: **February 9, 2015**  
SUBJECT: **U.S. Department of Education Final Requirements for the School Improvement Grants Program**

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### Introduction

In today's Federal Register, the U.S. Department of Education (ED) issued final rules for the School Improvement Grants (SIG) program. In brief, the new regulations will permit states to use SIG funds to implement state-determined school reform strategies, evidence-based whole school reform strategies, and intervention models that focus on improving outcomes in preschool and the early elementary grades; permit state educational agencies (SEAs) to make five-year SIG awards to local educational agencies (LEAs); provide rural LEAs some additional flexibility in their use of SIG funds; require LEAs to continuously engage parents and the community throughout SIG implementation; and make several other changes to the current program requirements. Several of these changes were required by the Fiscal Year (FY) 2014 and 2015 Appropriations Acts.

[\[Link to full Federal Register notice\]](#)

The purpose of this memo is to describe the policy changes encompassed in the new regulations, including changes made from the Department's original proposal, which was published as a Notice of Proposed Rulemaking (NPRM) in the September 8, 2014 Federal Register.

### Overview of the Current SIG Program

The statutory provisions authorizing the SIG program (section 1002(g) of the Elementary and Secondary Education Act (ESEA)) are actually very concise. Each state receives a formula grant and generally must subgrant at least 95 percent of its allocation to LEAs for school improvement activities. In making subgrants, an SEA must give priority to the lowest-achieving schools that demonstrate the greatest need for funds and the strongest commitment to ensuring that subgrant funds are used to enable the lowest-achieving schools to meet their improvement objectives.

In 2009 and 2010, after the SIG program received a major funding boost through the American Recovery and Reinvestment Act, ED promulgated regulations that dramatically restructured the program. Most significantly, those rules required SEAs to target SIG funds on persistently low-achieving schools (generally defined as the lowest-achieving Title I schools in the state or as high schools with less than a 60 percent graduation rate), to permit LEAs to receive up to \$2

million annually in SIG funds per participating school, and to require schools receiving SIG funds to implement one of the following four school intervention models:

- The Turnaround model, which involves, among other things, replacing the principal and retaining no more than 50 percent of a school's staff, adopting a new governance structure, and implementing a research-based and vertically-aligned instructional program.
- The Restart model, which requires an LEA to convert a school to a charter school or close and reopen it under the management of a charter school operator, a charter management organization (CMO) or an education management organization (EMO).
- School closure, which involves closing a school and enrolling its students in other, higher-achieving schools in the LEA.
- The Transformation model, which requires replacing the principal and ineffective teachers, undergoing comprehensive instructional reform, increasing learning time, and expanding operational flexibility.

Subsequently, ED's "ESEA Flexibility" initiative provided states that receive waivers from the requirements of the No Child Left Behind (NCLB) Act some flexibility in the selection of schools to receive SIG funds but not in the requirement to implement one of the four models in each participating school.

### **Major Provisions of the New Regulations**

Five-Year Awards – While ESEA authorizing language permits SEAs to award LEAs subgrants for up to three years, the FY 2014 and 2015 Appropriations Acts authorize the Secretary of Education to permit a state to establish an award period of up to five years. Under the new rule, an SEA may make a subgrant for up to five years, of which one year may be used for planning and other pre-implementation activities, at least three years may be used for implementation, and up to two years may be used for activities related to sustaining reforms in a school. If an SEA provides funding for a year of planning and pre-implementation activities, it must, prior to renewing the grant and allowing full implementation to go forward, review the progress of the grant in order to determine whether the LEA will be able to fully implement the chosen intervention in the coming school year. No school may receive more than five years of continuous funding for the implementation of a SIG intervention.

The Department made no changes in this area to the language originally included in the NPRM.

State-Determined School Improvement Intervention Models – The FY 2014 and 2015 Appropriations Acts permit LEAs to use SIG funds to implement, as an alternative to the four original models, a "State-determined school improvement strategy that has been established by a State educational agency with the approval of the Secretary." In response, the NPRM would have permitted an SEA to apply to ED to implement a single state-determined intervention model (1) that is aligned with the "turnaround principles" established under ESEA Flexibility (e.g., either replacement of the school principal or a demonstration that the current principal has the ability to lead a turnaround effort; operational flexibility; a review of all teachers and retention of only those determined to be effective; and (2) that provides for increased learning time.



Subsequently, the Manager's Statement accompanying the FY 2015 Appropriations Act stated that the requirements proposed in the NPRM fell short of Congressional intent and instructed the Department to ensure that the final rules strictly adhere to the bill language. In response, the Department has replaced the lengthy list of proposed requirements with a single requirement that a state-determined intervention model be a whole-school reform model. (See definition of the term "whole-school reform model" below.)

As under the NPRM, the final rule permits an SEA to apply to ED for approval of only a single state-determined model.

Evidence-Based Whole-School Reform Model – The FY 2014 Appropriations Act permitted LEAs to use SIG funds to implement, as a second alternative to the four original models, "a whole-school reform strategy for a school using an evidence-based strategy that ensures whole-school reform is undertaken in partnership with a strategy developer offering a whole school reform program that is based on at least a moderate level of evidence that the program will have a statistically significant effect on student outcomes, including more than one well-designed or well-implemented experimental or quasi-experimental study." The FY 2015 Act continued this language but changed "more than one" study to "at least one" study.

The new regulations flesh out this statutory language by:

- Defining a "whole-school reform model" as a model that: (1) is designed to improve student academic achievement or attainment; (2) is implemented for all students in a school; and (3) addresses, at a minimum and in a comprehensive manner, school leadership, teaching and learning in at least one full academic content area (including through professional development), student non-academic support, and family and community engagement.
- Defining a "whole-school reform model developer" as: (1) an entity or individual that maintains proprietary rights for the model; or (2) if no such entity or individual exists, an entity or individual that has a demonstrated record of success in implementing a whole-school reform model and is selected through a rigorous review process that includes a determination that the entity or individual is likely to produce strong results for the school. (This was a change from the NPRM, which required that such an entity or individual, instead of meeting these requirements, have a record of success in implementing the specific model under consideration and that it have a high-quality plan for implementing the model in a school.)
- Requiring that a model have evidence of effectiveness that includes at least one study that meets What Works Clearinghouse evidence standards with or without reservations<sup>1</sup> and that found a statistically significant impact on student achievement or attainment, with no statistically significant and overriding unfavorable impacts in the study or in other studies of the intervention. (This was a change from the NPRM, which required at least two such studies, and was made because of the change in the appropriations law.)

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<sup>1</sup> If a study met the What Works Clearinghouse evidence standards with reservations, it must have included a large sample and a multi-site sample. This language was added to the requirements in the NPRM.

- Requiring an SEA, in approving an LEA's application to implement such a model, to consider the extent to which the LEA demonstrates that the evidence supporting the strategy includes a sample population or setting similar to the population or setting of the school to be served.

Early Learning Intervention Model – Although the FY 2014 and 2015 Appropriations Acts mandate the addition of only the two new intervention models described above, the new regulations rules include a third model, the Early Learning Intervention model. An elementary school implementing this model will need to meet a number of requirements, including offering full-day kindergarten, establishing or expanding a high-quality preschool program, and, prior to implementing the model, replacing the principal. The regulation uses the same definition of “high-quality preschool program” as the Departments of Education and Health and Human Services are using for the Preschool Development Grants program; that definition requires high staff qualifications, high-quality professional development, a child-to-instructional staff ratio of no more than 10 to 1, a class size of no more than 20, a full-day preschool program, instructional staff salaries that are comparable to local K-12 salaries and several other program elements.

The Department made no changes to the language in this area that was included in the NPRM.

Flexibility for Rural Districts – The FY 2014 Appropriations Act permits a rural LEA (an LEA that is eligible to receive funding from one of the ESEA Rural Education programs) to modify one element of a SIG model. The Department has incorporated this authorization into the regulations and provided that it applies to the Turnaround or Transformation models and that any modification would need to meet the original intent of the element. For example, an LEA applying to modify the Turnaround model requirement for replacement of the school principal would have to show how it will ensure strong leadership in the school. In addition, SEAs must now include, in their SIG reports to the Department, information on the number of schools implementing models with a modified element.

The final rule included no changes to the NPRM's language on this issue.

Revisions to Current Models – In addition to addressing the language in the Appropriations Act and adding the Early Learning Intervention model, the Department made several changes to the regulatory language for the four current models and regarding the implementation of those models.

- The requirements regarding teacher and school leader evaluation under the Transformation model are be revised to make them consistent with the more detailed ESEA Flexibility requirements on teacher and leader evaluation.
- The new regulations delete the “rule of nine,” which required that an LEA with at least nine “Tier I” and “Tier II” schools (schools that are among the lowest-performing in the state) implement the Transformation model in not more than half of those schools.
- Several changes that affect SEAs' consideration of subgrant applications, regardless of the model the LEA proposes to implement:

- SEAs are now required to take into consideration the extent to which an LEA has: (1) demonstrated that the intervention it has selected for each school is designed to meet the specific needs of the school, based on a needs analysis that, among other things, analyzes the school improvement needs identified by families and the community; and (2) has taken into consideration family and community input in selecting interventions.
- SEAs must consider the extent to which an LEA's application demonstrates how the LEA will meaningfully engage families and the community in the implementation of an intervention on an ongoing basis. (The previous regulations specifically required family and community involvement only in the implementation of the Transformation model.)
- SEAs must consider the extent to which an LEA's application demonstrates how the LEA will provide for effective oversight and support for the implementation of interventions in its schools.
- SEAs must consider the extent to which an LEA's application demonstrates that the LEA will regularly review external providers' performance and will hold providers accountable for their performance. Furthermore, the regulatory requirements pertaining to LEAs will require them to hold external providers accountable.
- In response to comments on the NPRM, the Department has added a requirement that SEAs consider the extent to which an LEA's application demonstrates that the LEA will implement, to the extent practicable, one or more evidence-based strategies and has defined an "evidence-based strategy" as a strategy that has at least moderate evidence of effectiveness as set forth in the EDGAR regulations. In addition, if an SEA does not have enough SIG funds to allocate sufficient funding to enable a Turnaround model to be fully implemented in each of the state's lowest-performing schools, the SEA may take into consideration the extent to which LEAs applying for funds would implement evidence-based strategies.
- SEAs are now required to consider the extent to which an LEA proposing to implement the Restart model will conduct a rigorous review process in selecting a charter school operator, CMO or EMO to operate or manage a school. This review process must include a determination that the operator, CMO or EMO is likely to produce strong results in a school, as evidenced by the organization's record of operating or managing schools that demonstrate significant improvement in academic achievement for all student subgroups, success in closing achievement gaps across subgroups, high school graduation rates above the state average for all subgroups, and no significant compliance issues.
- The proposal provides some flexibility to SEAs in renewing LEA subgrants in cases in which the LEA cannot yet document that it is meeting student achievement goals.

- The regulations include certain changes to make the selection of SIG schools more consistent with the “priority” and “focus” schools that states have identified under their ESEA Flexibility waivers, and make some changes to SIG reporting requirements.

Except in the one area identified above (regarding evidence-based strategies), the final language on these matters is identical to what was in the NPRM.

### **Next Steps**

The new regulations will govern the SIG subgrant competitions that SEAs conduct in the winter and spring for school turnaround activities that will commence in school year 2015-2016.

States used most of their FY 2013 funding to make new LEA subgrants. With encouragement from the Department (and in anticipation that the program rules could change in FY 2014), states generally “front-loaded” their 2013 subgrants, providing all the funding up front and not providing for out-year continuations. Thus, almost all of the FY 2014 appropriation should be available for new subgrants under the new regulations, and the FY 2015 appropriation will largely support the second year of those projects. Alternatively, some states might decide to extend certain projects that they have previously funded, to allow for a fourth and possibly fifth year.

The FY 2014 and 2015 appropriations for SIG were each \$505.8 million.

