

**DEPARTMENT OF EDUCATION****Office of Elementary and Secondary Education; Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act****AGENCY:** Department of Education.**ACTION:** Notice of proposed requirements and request for comment.

**SUMMARY:** We propose requirements for optional State consolidated applications submitted under section 9302 of the Elementary and Secondary Education Act of 1965 (ESEA), as reauthorized by the No Child Left Behind Act of 2001, Public Law 107-110 (NCLB). Submitting a consolidated application will allow a State to obtain funds under many Federal programs through a single application, rather than through separate applications for each program. To receive fiscal year (FY) 2002 program funds on a timely basis, a State educational agency's (SEA's) application would need to be received no later than May 28, 2002.

**DATES:** Please send your comments on or before April 5, 2002.

**ADDRESSES:** Please address your comments to Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, using one of the following methods:

1. *Internet.* We encourage you to send your comments through the Internet to the following address: [marcia.kingman@ed.gov](mailto:marcia.kingman@ed.gov). You should use the term "ESEA Consolidated Plan" in the subject line of your electronic message.

2. *Fax Machine.* You also may submit your comments by fax at (202) 205-5870.

3. *Surface Mail.* You may submit your comments via surface mail addressed to: Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. room 3E213, Washington, DC 20202-6400.

If you want to comment on the information collection requirements, you must send your comments to the Department representative named in this section.

**FOR FURTHER INFORMATION CONTACT:** Marcia Kingman, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. room 3E213, Washington, DC 20202-6400. Telephone: (202) 260-2199.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on

request to the contact person for information identified in the preceding paragraph.

**SUPPLEMENTARY INFORMATION:** The No Child Left Behind Act of 2001 (Pub. L. 107-110, NCLB) became law on January 8, 2002, with the President George W. Bush's signature of H.R. 1. The Act substantially revises the Elementary and Secondary Education Act of 1965 (ESEA) in a manner designed to provide all of America's school children with the opportunity and means to achieve academic success. It embodies the four key principles of the President's education reform plan: (1) Accountability for results, (2) expanded State and local flexibility and reduced "red tape," (3) expanded choices for parents, and (4) focusing resources on proven educational methods, particularly in reading instruction.

These principles are designed to produce fundamental reforms in classrooms throughout America. The new Act will provide officials and educators at the school, school district, and State levels substantial flexibility to plan and implement school programs that will help close the achievement gap between disadvantaged and minority students and their peers. At the same time, the reauthorized Act will hold school officials accountable—to parents, students, and the public—for achieving results. These and other major changes to the ESEA redefine the Federal role in K-12 education to better focus on improving the academic performance of all students.

The full text of this law may be found on the Internet at: <http://www.ed.gov/offices/OESE/esea/index.html>.

### **I. Purpose of Consolidated State Applications**

Before they can implement their ESEA education programs, States need to apply for and receive Federal program funds. Each ESEA program statute contains detailed requirements for the content of the plan or application under which States can apply for program funding. In enacting the ESEA, Congress crafted these individual program plan or application requirements to reflect a need for the Department to review critical programmatic information before awarding ESEA funds. However, recognizing the burden on States of preparing so many individual ESEA plans or applications, and wanting to encourage States to integrate individual programs with State and local funds into comprehensive educational improvement and reform initiatives, Congress retained in sections 9301 and 9302 provisions that permit each SEA,

in consultation with the Governor, to apply for ESEA program funds on the basis of a "consolidated State plan or a consolidated State application."

Under this approach, a State educational agency (SEA) may submit a consolidated plan or application that responds to an alternative set of procedures and criteria the Department has established. By statute, a consolidated application is to include "only descriptions, information, assurances, \* \* \* and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application." The consolidated application authority thus can result in a major reduction in State administrative burden while helping States to meld the various Federal programs into a more coherent strategy for improving education in the State.

In addition, section 9305 of the ESEA extends similar flexibility to local educational agencies (LEAs), continuing the authority for LEAs to receive program funding through submission of consolidated local plans or applications instead of having to submit a separate application for each individual program. It also clarifies that SEAs may not require LEAs to submit individual program plans or applications if the LEAs wish to submit a consolidated plan or application.

Consistent with the principles embodied in NCLB, consolidated applications are thus a tool that can promote State and local flexibility in exchange for greater State and local accountability for increased student achievement. These applications can be a vehicle for linking State plans to performance and, specifically, to data States will include in the performance reports submitted under section 9303 of the ESEA. The Department's current proposal outlined below, unlike previous practice, would require States to provide information and data in their consolidated applications that would be the baseline for State reporting in their annual performance reports. Moreover, while the Department would identify major goals against which States would create program strategies and report performance data, States would have flexibility to develop targets for measuring progress that fits individual State contexts. In all cases, the applications and report would focus on a single objective—student achievement.

## II. The Department's Proposal for the Content of the Consolidated State Application

The No Child Left Behind Act recognizes that all children can achieve to the same high standards and must be provided the education they need to reach those standards. Successful student academic performance depends upon the opportunity to attend schools that—

- Provide instruction to all students that, based on the findings of solid research, will lead to gains in achievement for all students;
- Have highly qualified teachers and principals;
- Provide a learning environment that is safe and drug free, and conducive to learning; and
- Are accountable to the public for results.

The proposed requirements for the consolidated application and report are guided by these principles.

The Department proposes that consolidated State applications integrate these principles in two ways. First, in our framework for ESEA accountability we propose that States adopt (1) six overall "performance goals" that cut across the ESEA programs, (2) core indicators for measuring progress toward these goals, and (3) State performance targets that define when satisfactory progress occurs. Second, we propose that States provide certain minimum information that will confirm their conformance with key requirements of the ESEA programs they choose to include in their consolidated applications.

### III. The Framework for ESEA Accountability.

#### A. "ESEA Performance Goals"

The ESEA performance goals reflect overall statements of expectations arising from the purposes of the ESEA programs. We have identified in appendix A six ESEA performance goals that the Department proposes that each SEA submitting a consolidated application would have to adopt. These are:

1. All students will reach high standards, at a minimum attaining proficiency or better in reading and mathematics by 2013–2014.
2. By 2013–2014, all students will be proficient in reading by the end of the third grade.
3. All limited English proficient students will become proficient in English.
4. By 2005–2006, all students will be taught by highly qualified teachers.

5. All students will be educated in learning environments that are safe, drug free, and conducive to learning.

6. All students will graduate from high school.

These ESEA performance goals, like the basic purposes of the ESEA programs themselves, fall into three areas: (a) Those that address levels of proficiency that all students would meet; (b) those that address the special needs of certain populations of students, such as students who are limited English proficient, who are the special focus of particular ESEA programs and (c) those that address such factors as qualified teachers and safety that are critical to a school's success in enabling student achievement to flourish.

#### B. "ESEA Performance Indicators"

States would use performance indicators to measure their progress in meeting the ESEA performance goals. Along with requiring States to adopt the six key ESEA performance goals identified above, the Department would require each SEA that submits a consolidated application to adopt, at minimum, the Department's core set of indicators for these six performance goals. For example, as explained in appendix A, relative to the second ESEA performance goal, "By 2013–2014, all students will be proficient in reading by the end of the third grade," the Department would require all States to use the following indicator:

*Example: 2.1 Performance indicator:* The percentage of students in third grade reading at grade level or above. State adoption of the common core indicators listed in appendix A is critical to the Department's ability to meet its responsibility under NCLB to ensure that all States are accountable for implementing the ESEA programs in ways that contribute significantly to the achievement of all students. As with the ESEA performance goals, States would be free to add their own performance indicators to the core set of indicators that the Department is proposing.

#### C. "Performance Targets"

Performance targets define the progress a State expects to make at specified points in time with respect to each indicator. For example, for indicator 2.1, "the percentage of students in third grade reading at grade level," a State might adopt as a target: the percentage of students in third grade reading at grade level will increase from "x" percent in 2001–2002 to "y" percent in 2002–2003.

Under our proposal, while each State would have to adopt the core set of ESEA performance goals and performance indicators that the Department had established, the State would define and adopt its own

performance targets. (See appendix A for the ESEA goals and indicators that the Department would require States submitting consolidated applications to adopt, and some examples of performance targets that States might choose to use.)

Finally, the accountability system relies upon collection of data that explain how well States are succeeding in meeting their performance targets. States would describe in their consolidated applications their timelines and benchmarks for securing these data, as well as their data sources. States also would provide their "baseline data." For example, a State that adopted the performance target described in the preceding paragraph would identify the percentage of students in third grade reading at grade level at the end of the 2001–2002 school year (i.e., the "x" percent).

In their annual performance reports, States would provide updated data on their progress in meeting their performance targets, as well as other data the Department needs to assess both State progress in improving student achievement and the contributions of the Federal programs to that effort.

Where applicable, States may include html references, electronic files, or other existing documentation to comply with the requirements listed in the application.

### IV. Other Requirements for the Consolidated Application

In addition to the framework for ESEA accountability, the consolidated application also would include:

A. A description of key strategies States would use to implement the ESEA programs in order to accomplish the purposes of those programs (appendix B);

B. Key programmatic and fiscal information that the Department has determined it needs before it awards FY 2002 funds in order to ensure the integrity of programs States include in their consolidated applications (appendix C). This information is a small part of what the individual ESEA program statutes would have States otherwise provide in individual program plans or applications; and

C. Assurances of the State's adherence to all requirements of the programs included in the application (appendix D). In the final application package for the consolidated application, and, on its website, the Department plans to include a list of particular requirements of individual programs that, while covered by these general assurances, the

Department believes warrant special State attention.

#### **V. Documentation of Compliance With All Program Requirements**

States will be held accountable by policymakers, parents, and students, as well as the Department, for how they plan for and use Federal funds. As part of Federal accountability, we would continue to require States to maintain documentation of their compliance with all program requirements—both those the ESEA expresses as (1) descriptive content or specific assurances to be included in individual program plans or applications, and (2) those that otherwise govern program planning, public input, implementation, or evaluation. To the extent consistent with State “open records” statutes, these documents evidencing adherence to ESEA requirements would be available to parents, policymakers, and other members of the public.

#### **VI. Consolidation of Federal Funds**

Title VI of the ESEA contains a number of important flexibility provisions that permit States and LEAs to treat funds received under some programs as if received under others. Moreover, sections 9201–9203 continue to permit the SEAs and LEAs to consolidate administrative funds under specified programs. However, beyond the flexibility that these provisions offer, the Department’s approval of a consolidated State application neither authorizes a State or LEA to combine or commingle program funds nor eliminates State or LEA responsibilities to keep separate records on the use of each program’s funds.

#### **VII. Data Management Reform**

During 2002 and beyond, the Department will work with LEAs and SEAs to establish data standards for performance indicators and other information collected from States and districts. The Department will also confer with LEA and SEA officials, the research community, information technology vendors, and other interested parties on ways in which States, LEAs, and schools can collect and electronically record useful baseline and follow-up data through an internet-based format. The new format should accommodate the measurement of success relative to the various indicators that the Department and States have adopted. Future application and reporting guidelines, therefore, will stress electronic reporting and provide States with additional options in fulfilling federal information requests.

#### **VIII. Other Considerations**

NCLB makes significant changes to the ESEA that are designed to give school officials, educators, and parents the tools they need to ensure that all students can achieve. However, in several instances this Act also builds upon school reform strategies that were previously begun under other Federal and State initiatives. In this regard, provided that the content of a State’s consolidated application is consistent with Department requirements, the States would be able to draw upon information and data that it developed under the ESEA as previously authorized.

In addition, to gauge the success of the Nation in implementing NCLB, it is important that, where possible, States report their assessment data using common formats and measures. Hence, the Department intends to work with States on the development of these consistent formats and measures.

#### **IX. Proposed Process for Submitting a Consolidated State Application**

Information States would submit by May 2002 is proposed in the following discussion. Given the January enactment of the NCLB, States will have a limited period of time to prepare full consolidated applications before they will need to submit them for Departmental review prior to the awarding of ESEA funds in early July of 2002. In some cases, this period of time will be shortened further as a result of State procedural requirements, including those for securing approvals by State boards or other reviewing officials of applications for Federal funding before SEAs submit them to the Department.

On the other hand, the ESEA goals and performance indicators the Department proposes to establish are very basic to the ESEA programs, and many States already collect data on performance targets for these kinds of indicators. Moreover, if in the absence of consolidated applications SEAs were to submit to the Department the individual plans or applications that the ESEA program statutes otherwise require, they would by law be required to provide the Department this spring not only the limited amount of program information identified in appendix C, but also much more.

In balancing these factors, we propose that each SEA that chooses to submit a consolidated application submit to the Department by May of this year at least the following:

A. A statement that it (a) has adopted the minimum core ESEA goals and

performance indicators that the Department will establish, and (b) agrees to adopt (for inclusion in the following year’s consolidated application) its own performance targets for these indicators;

B. A description of the key activities and initiatives the State will carry out with ESEA State-level, administrative and activity funds, including activities to help achieve their performance targets: i.e., information about the State’s standards, assessments and accountability system (of which for certain items we propose that States submit timelines in May 2002 and other information and evidence at a later date as specified), subgranting processes, technical assistance, monitoring, professional development, and coordination activities (appendix B); and

C. The individual ESEA program descriptions that the Department determines are needed in order to ensure program integrity (appendix C), and the required statutory assurances (appendix D).

States that already have adopted performance targets that link to these performance indicators (including indicator 1.3, which incorporates the NCLB definition of annual yearly progress under section 1111(b)(3)), would be encouraged to submit them with their applications, along with any baseline data they already use (and an identification of the data sources).

If SEAs do not submit their ESEA performance targets and associated baseline data in the consolidated applications provided to the Department in May 2002, SEAs would have to submit them to the Department no later than May 2003 in order that the Department can review and approve this information in time to make timely awards of FY 2003 ESEA program funds. (SEAs would submit any information for which either the ESEA or the Department establishes a later submission date in accordance with that other schedule.)

#### **X. Programs That May Be Included in a Consolidated Application**

Section 9101(13) of the ESEA, which defines the term “covered program,” and section 9302, which governs consolidated State plans and applications, permit an SEA to seek funding under any of the programs authorized by the following titles and parts through a consolidated State application:

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies.

Title I, Part B, Subpart 3: Even Start Family Literacy.

Title I, Part C: Education of Migrant Children.

Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk.

Title I, Part F: Comprehensive School Reform.

Title II, Part A: Teacher and Principal Training and Recruiting Fund.

Title II, Part D: Enhancing Education Through Technology.

Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement.

Title IV, Part A, Subpart 1: Safe and Drug-Free Schools and Communities.

Title IV, Part A, Subpart 2: Community Service Grants.

Title IV, Part B: 21st Century Community Learning Centers.

Title V, Part A: Innovative Programs.

Title VI, Part B, Subpart 2: Rural and Low-Income Schools.

Other Programs the Secretary May Designate

The Secretary has decided to designate both the formula and discretionary components of the programs supporting development of State assessments, authorized in sections 6111 and 6112 of Title VI, as programs that SEAs may include in their consolidated applications. (Section 6111 provides formula grants to States for development of State assessments and related activities. Section 6112 provides competitive grants to States for development of "enhanced assessment instruments." SEAs that choose to apply for the competitive grant program (see appendix E) would submit their applications by September 15, 2002.)

The competitive Enhanced Assessment Instruments program, authorized in section 6112 of the ESEA, is not the only competitive program that section 9302 might permit an SEA to include in a consolidated application. On the other hand, applications for competitive grant programs present special challenges for consolidated applications; in particular, they must be reviewed against competitive selection criteria and are typically processed over a longer timeframe than is needed for formula grant programs. Given the close relationship of the competitive Enhanced Assessment Instruments program to the development of a State system of accountability for student achievement that is at the heart of Title I, Part A program, the Secretary has decided, to permit States, notwithstanding these factors, to apply for this one competitive program

through the consolidated application. The Department's proposed selection criteria and other requirements to govern the initial competition under this program are contained in appendix E. Given the difficulties of using consolidated applications as the vehicle with which SEAs would apply for competitive grant programs, the Secretary does not propose to invite States to include other competitive programs in them.

As stated in the "Invitation to Comment" section of this notice, the public is invited to suggest other grant programs that the Secretary should designate for inclusion in a consolidated State application and to describe how that application can best accommodate these other programs.

#### **XI. Public Participation Requirements**

Section 9304(a)(7) of the ESEA provides for public comment on the State application by requiring, as one of the SEA's general assurances, that "before the [consolidated application] was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the application and considered such comment." We believe that the procedures under which SEAs would secure adequate public participation are to be determined under State law.

#### **XII. Consolidated Local Plans or Applications**

Section 9305(a) of the ESEA authorizes LEAs to receive funding from the SEA under more than one "covered program" through consolidated local plans or applications. Section 9305(c) and (d) requires the SEA, in consultation with the Governor, to collaborate with LEAs in establishing procedures for submission of these plans or applications, and to require "only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the [LEA] plan or application."

These provisions closely mirror provisions in section 9302 of the ESEA that govern the content and procedures for consolidated State applications. Consistent with the statutory language, we believe that SEAs have wide discretion in fashioning (in consultation with the Governor and LEAs) procedures and content for these plans or applications that make sense in terms of the student achievement and other goals imbedded in the ESEA. We stress that LEAs submitting consolidated local plans or applications must still implement all of the requirements—including record-keeping

requirements—of the statutes whose programs those plans or applications include.

#### **XIII. Voluntary Submission of Consolidated State Applications**

Development of a consolidated State application is voluntary. It is the SEA's decision whether to submit a consolidated application, which of the eligible programs to include in it if one is submitted, and whether to add, in later submissions, programs that are not included in the consolidated application submitted this May for purposes of receipt of FY 2002 funds. (Should an SEA choose to submit an individual application under the Safe and Drug-Free Schools and Communities program, the program statute (Title IV, Part A, Subpart 1) permits SEAs to submit an "interim" application in FY 2002, and a comprehensive application by FY 2003. Proposed rules for this interim program application are included in appendix F.) Moreover, an SEA that submits a consolidated application for FY 2002 funds that does not contain all of the information requested could later decide not to submit that outstanding information and instead submit individual program plans or applications that the ESEA, as amended by NCLB, requires.

#### **XIV. Response to the January 4, 2002 Notice of the Department's Preliminary Plans for the Consolidated State Application**

On January 4, 2002, we published a notice in the **Federal Register** (67 FR 571) that described our working model for the content and procedures to govern the consolidated State application, and requested early public comment. This notice included our initial thoughts about the kind of ESEA accountability system the consolidated State application (and annual performance report) might encompass, and proposed that States submit their consolidated State applications through a series of phased submissions.

In response to this notice, the Department received 27 written comments, including 17 from State officials across the Nation. While offering suggestions in a number of areas to improve the overall effectiveness of both the consolidated application and the overall accountability system, these comments generally were very supportive of the Department's proposal.

In this regard, many commenters made recommendations for how the content of performance goals, indicators, and State-defined targets that

SEAs would address in their consolidated applications might fit with their own State accountability systems. Others commented on the proposal to permit SEAs to submit their consolidated applications in phases. These individuals generally agreed that a phase-in process would be needed, urged that the Department have all data submitted no later than the beginning of the 2003–04 school year, and recommended that after submitting their initial applications this spring, SEAs submit follow-up information on a schedule that reflects their States' own needs and unique circumstances. Still other commenters raised questions about specific ESEA programs, questions the Department will address in individual program guidance. We considered all of these suggestions and questions in formulating the details of this current proposal.

#### Invitation To Comment

The Secretary invites comments from all interested members of the public on this proposal for the content and procedures to govern consolidated State applications. In view of the late enactment of the NCLB and the time needed subsequently to prepare this notice, the Department will need to publish a notice of final requirements as quickly as possible in order to ensure that it can make formula grant awards to States in the beginning of July. For this reason, while we will carefully consider all comments received during the 30-day comment period, we request those wishing to comment to send their comments to the individual identified in the **ADDRESSES** section of this notice by March 25 if possible.

As we observed in our January 4 initial proposal, consolidated State applications can provide the Department with important information on how the State intends ESEA programs included in the application to promote increased achievement of all students. However, the principal importance of applications (and reports) is the opportunity they provide SEAs to communicate to the public, policymakers, and others in each State the basis on which the State officials responsible for implementing the new law propose to hold themselves accountable for ensuring that no child is left behind.

In both of these contexts, we are interested in receiving public comment and reaction to all aspects of this proposal. However, in formulating your comments we ask that you pay particular attention to the following questions:

A. *The proposed ESEA system of accountability.* Do the ESEA performance goals and performance indicators, which the Department would have all States adopt as a minimum core for a sound accountability system (see appendix A), reflect a reasonable mix of those critical elements on which student achievement and the purposes of ESEA programs rest? Would the data reporting requirements included in this package be compatible with States' own efforts to collect, analyze, and report data on educational outcomes and the effectiveness of education programs? How can the Department assist States in creating systems to manage data associated with ESEA performance indicators? What baseline data do States already have to measure their success in meeting these performance targets? When in calendar year 2003 could States reasonably provide baseline data to the Department?

B. *Timeline for submitting data for appendix B or C.* Aside from information that appendix B or C would permit States to submit on another schedule—

Does appendix B or C solicit any program descriptions or fiscal information that States could not provide by May of this year? In responding to this question, please remember that absent submission of a consolidated application, the ESEA would require States, as a condition of receiving their fiscal year 2002 ESEA funding, to submit individual program plans or applications that meet each of the requirements of the applicable ESEA program statute.

Except for requirements of Title I, Part A that do not become effective until later, is it feasible to have all required information—including baseline data for performance targets and information about standards, assessments, and accountability systems required by Title I—submitted to the Department by May 2003? If not, why not? If this is not feasible, what flexibility might the Department consider providing to States that can demonstrate a need for a bit more time to adopt performance targets relative to the required indicators proposed in appendix A, and at the same time hold States accountable for providing baseline data?

C. *Individual program information.* Do any aspects of the programmatic or fiscal information that the Department would have States submit in their consolidated applications seem either unnecessary or ill-defined? Which ones?

D. *Possible designation of other programs.* Section 9302(a)(2) of the ESEA authorizes the Secretary to designate other programs for inclusion

in a consolidated State application. Are there other programs that the Secretary should designate?

E. *Other questions.* Are there criteria and procedures for consolidated State applications that, consistent with the requirements of sections 9301 and 9302 of the ESEA, would better promote accountability for increased academic achievement of all students and other objectives of the No Child Left Behind Act? What are they? How should they be reflected in the procedures and content for consolidated State applications that the Department establishes? Alternatively, is the Department's proposal reasonable and clearly presented? Which aspects need to be modified or revised?

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3W300, 400 Maryland Avenue, SW., Washington, DC 20202–6400.

#### Executive Order 12866

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice are those associated resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice, we have determined that the benefits justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

*Summary of Potential Costs and Benefits:* It is not anticipated that the application requirements proposed in this notice will impose any significant costs on applicants. These proposed requirements provide a basis for the Secretary to award funds from a number of different federal programs under a single application. Therefore, the requirements would not impose any unfounded mandates on States. The benefits of the program are described in the **SUMMARY** section of this application.

#### Regulatory Flexibility Act Certification

The Secretary certifies that the requirements in this notice would not have a significant economic impact on a substantial number of small entities. The entities affected by these requirements would be SEAs. In

addition, these requirements are minimal and are necessary to ensure effective program management.

### Federalism

Executive Order 13132 requires us to ensure meaningful and timely input by State and local elected officials in the development of regulatory policies that have federalism implications.

"Federalism implications" means substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Although we do not believe these proposed requirements would have federalism implications as defined in Executive Order 13132, we encourage State and local elected officials to review them and to provide comments.

### Paperwork Reduction Act of 1995

The Department is currently drafting a consolidated State application package that would contain the data collection requirements proposed in this document. The feedback received on these proposed data collection requirements will be considered when we develop the final notice and the final application package. At that time, we will request Office of Management and Budget approval of the final application package on an emergency basis.

We invite your comments on the proposed collection requirements. In view of the late enactment of the NCLB and the time needed subsequently to prepare this notice, the Department will need to publish a notice of final requirements as quickly as possible in order to ensure that it can make formula grant awards to States in the beginning of July. For this reason, while we will carefully consider all comments received during the 30-day comment period, we request those wishing to comment to send their comments to the individual identified in the **ADDRESSES** section of this notice.

### Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document is intended to provide early notification of our specific plans and actions for this program.

### Electronic Access to This Document

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**Program Authority:** Section 9302 of the ESEA, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110).

**Susan B. Neuman,**

*Assistant Secretary for Elementary and Secondary Education.*

**Marina Tse,**

*Acting Director for English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.*

### Appendix A: ESEA Performance Goals, Performance Indicators, and State Performance Targets

State and local accountability for the academic achievement of all students is central to the No Child Left Behind Act of 2001. The system of accountability on which the consolidated State application rests, a system intended to help the public understand how well the State is meeting its student achievement goals for all students, is built around several key elements:

1. ESEA "Performance goals" that the Department has established. These goals reflect the basic purposes of the ESEA and the programs included in the consolidated application.

2. ESEA "Performance indicators" that the Department has established for each ESEA performance goal. States would use these indicators to measure their progress in meeting the ESEA performance goals.

3. "Performance targets" that each State would establish. The performance targets define the progress a State expects to make at specified points in time with respect to each indicator. For example, for the indicator "the percentage of students in third grade reading at grade level," the performance target might be: "the percentage of students in third grade reading at grade level will increase from "x" percent in 2001-2002 to "y" percent in 2002-2003."

We identify the following six ESEA performance goals that are central to the purposes of the ESEA programs, and performance indicators for each of these

performance goals. Each State must adopt this set of six performance goals and corresponding performance indicators. However, a State may include additional performance goals and indicators in its application if it desires to do so.

*Performance goal 1: All students will reach high standards, at a minimum attaining proficiency or better in reading and mathematics by 2013-2014.*

1.1 *Performance indicator:* The percentage of students in Title I schools, in the aggregate and for each subgroup, who are at or above the proficient level in reading on the State's assessment. (Note: Subgroups are those defined in Section 1111(b)(2)(C)(v))

1.1.1 *Example of a State performance target:* State assessments will show that the percentage of students in Title I schools, in the aggregate and in each subgroup, who are at or above the proficient level in reading will increase consistent with the annual measurable objectives determined by the computations for "adequate yearly progress"; these annual measurable objectives are "x" for 2002-03, "y" for 2003-04, etc.

1.2 *Performance indicator:* The percentage of students in Title I schools, in the aggregate and in each subgroup, who are at or above the proficient level in mathematics on the State's assessment.

1.3 *Performance indicator:* The percentage of Title I schools that make adequate yearly progress in reading and mathematics.

1.3.1 *Example of a State performance target:* The percentage of schools that make adequate yearly progress will increase from the baseline established in 2001-2002 by "x" percent each subsequent year.

1.4 *Performance indicator:* The percentage of migrant students who are enrolled in schools in need of improvement.

1.5 *Performance indicator:* The percentage of students that meet or exceed State standards for student literacy in technology.

*Performance goal 2: By 2013-2014, all students will be proficient in reading by the end of the third grade.*

2.1 *Performance indicator:* The percentage of students in third grade reading at grade level or above.

*Performance goal 3: All limited English proficient students will become proficient in English.*

3.1 *Performance indicator:* The percentage of children identified as limited English proficient who have attained English proficiency by the end of the school year.

*Performance goal 4: By 2005-2006, all students will be taught by highly qualified teachers.*

4.1 *Performance indicator:* The percentage of classes being taught by "highly qualified" teachers (as the term is defined in section 9101(23) of the ESEA), in the aggregate and in "high-poverty" schools (as the term is defined in section 1111(h)(1)(C)(viii) of the ESEA).

4.1.1 *Example of a State performance target:* The percentage of classes being taught by highly qualified teachers, in the aggregate and in high-poverty schools, will increase from the baseline of "x" percent in 2001-2002 to "y" percent in 2002-2003, "z" percent in 2003-2004, etc.

4.2 *Performance indicator:* The percentage of teachers receiving high-quality professional development (See definition of "professional development" in section 9101 (34)).

4.3 *Performance indicator:* The percentage of teachers qualified to use technology for instruction.

*Performance goal 5: All students will be educated in learning environments that are safe, drug free, and conducive to learning.*

5.1 *Performance indicator:* The percentage of students who carried a weapon (for example, a gun, knife, or club) on school property (in the 30 days prior to the survey).

5.2 *Performance indicator:* The percentage of students who engaged in a physical fight on school property (in the 12 months preceding the survey).

5.3 *Performance indicator:* The percentage of students offered, sold, or given an illegal drug on school property (in the 12 months preceding the survey).

5.4 *Performance indicator:* The number of persistently dangerous schools, as defined by the State.

5.5 *Performance indicator:* The number of schools in which all students are able to work from a networked computer.

*Performance Goal 6: All students will graduate from high school.*

6.1 *Performance indicator:* The percentage of students who complete high school, disaggregated by poverty, limited English proficient and migrant status, and major ethnic and racial group membership.

6.2 *Performance indicator:* The number of students who drop out of school after entering grades 7 through 12, disaggregated by the poverty, limited English proficient and migrant status, and major ethnic and racial group membership.

**Note:** During 2002 and beyond, the Department will work with LEAs and SEAs to establish data standards for performance indicators and other information collected from States and districts. The Department will also confer with LEA and SEA officials, the research community, information technology vendors, and other interested parties on ways in which States, LEAs, and schools can collect and electronically record useful baseline and follow-up data through an internet-based format. The new format should accommodate the measurement of success relative to the various indicators that the Department and States have adopted. Future application and reporting guidelines, therefore, will stress electronic reporting and provide States with additional options in fulfilling federal information requests.

## Appendix B: State Activities To Implement ESEA Programs

States will conduct a number of activities to ensure effective implementation of the ESEA programs included in their consolidated applications. Many of the activities may serve multiple programs. For example, a State may develop a comprehensive approach to monitoring and technical assistance that would be used for several (or all) programs. In responding to the items in this section, SEAs would indicate the ESEA programs that will benefit from the

activities it describes. Where applicable, States may include html references, electronic files, or other existing documentation to comply with the requirements listed in the application.

1. Describe the State's system of standards, assessments, and accountability and provide evidence that it meets the requirements of the ESEA. In doing so—

a. Provide evidence that the State has adopted challenging content standards in mathematics and reading/language arts in accordance with Title I, Part A of the ESEA, where not previously submitted. If the State has modified its currently approved content standards in mathematics, reading, or language arts, submit evidence that the modified standards meet the requirements of section 1111(b)(1). (Note: A number of items request that States provide "evidence." The Department will issue guidance on what kind of evidence it will expect to see.)

b. Provide evidence that the State has adopted challenging academic content standards in science that meet the requirements of section 1111(b)(1) or, if these standards have yet to be adopted, submit a timeline for their development and submit evidence when it is available, but no later than May 2005.

c. Provide a detailed timeline for the development and implementation, in consultation with LEAs, of assessments that meet the requirements of section 1111(b)(3) in the required subjects and grade levels. When assessments are in place, provide evidence that they meet those requirements. Provide this evidence as early as it is available, but no later than indicated in the following schedule.

### Assessments

#### *Subject: Mathematics.*

Grades: 3–8.

Implement by: 2005–06.

Submit evidence by: December 2006.

#### *Subject: Reading/Language Arts.*

Grades: 3–8.

Implement by: 2005–06.

Submit evidence by: December 2006.

#### *Subject: Science.*

Grades: Elementary (3–5); Middle (6–9);

High School (10–12).

Implement by: 2007–2008.

Submit evidence by: December 2008.

d. Provide a detailed timeline for setting, in consultation with LEAs, academic achievement standards in mathematics, reading or language arts, and science that meet the requirements of section 1111(b)(1). When academic achievement standards have been set, provide evidence that they have been adopted and meet those requirements. Provide such evidence as early as it is available, but no later than indicated in the following schedule.

### Academic Achievement Standards

#### *Subject: Mathematics.*

Grades: 3–8.

Implement by: 2005–06.

Submit evidence by: December 2006.

#### *Subject: Reading/Language Arts.*

Grades: 3–8.

Implement by: 2005–06.

Submit evidence by: December 2006.

### *Subject: Science.*

Grades: Elementary (3–5); Middle (6–9);

High School (10–12).

Implement by: 2007–2008.

Submit evidence by: December 2008.

e. Describe how the State defines its adequate yearly progress "starting point" for the percentage of students meeting or exceeding the State's proficient level (or provide a timeline for defining the starting point and for submitting this information).

f. Provide the State's definition of adequate yearly progress (or provide a timeline for determining the definition and for submitting the definition) including—

i. For the percentage of students meeting or exceeding the State's proficient level, provide—

- The starting point percentage;
- The intermediate goals;
- The timeline; and
- Annual objectives.

ii. Current high school graduation rate and target rate.

iii. One other academic indicator, applicable to elementary schools, and its target.

iv. Any other (optional) indicators and their targets.

g. Provide evidence that the State has a single accountability system that uses the same criteria, based primarily on assessments consistent with section 1111(b), for determining whether a school has made adequate yearly progress, regardless of whether the school receives Title I, Part A or other Federal funds.

h. Identify the languages present in the student population to be assessed, languages in which the State administers assessments, and languages in which the State will need to administer assessments.

i. Provide evidence that, beginning not later than the school year 2002–2003, LEAs will provide for an annual assessment of English proficiency that meets the requirements of section 1111(b)(7).

j. Describe the status of the State's effort to establish standards and annual measurable achievement objectives that relate to the development and attainment of English proficiency by limited English proficient children. These standards and objectives must be derived from the domains of speaking, listening, reading, writing, and comprehension, and be aligned with the State academic content and student academic achievement standards as required by section 1111(b)(1) of the ESEA. If they are not yet established, describe the State's plan and timeline for completing the development of these standards and achievement objectives.

2. Describe key procedures, selection criteria, and priorities the State will use to award competitive subgrants (or contracts) to the entities and for the activities required by the program statutes of applicable programs included in the consolidated application. States should include a description of how, for each program, these selection criteria and priorities will promote improved academic achievement. Applicable included programs are:

- Even Start Family Literacy (Title I, Part B).
- Education of Migrant Children (Title I, Part C).

- Prevention and Intervention for Children Who Are Neglected, Delinquent, or At-Risk—Local Agency Programs (Title I, Part D, Subpart 2).

- Comprehensive School Reform (Title I, Part F).

- Teacher and Principal Training and Recruiting Fund—subgrants to eligible partnerships (Title II, Part A, Subpart 3).

- Enhanced Education Through Technology (Title II, Part D).

- Safe and Drug-Free Schools and Communities—reservation for the Governor (Title IV, Part A, section 4112).

- Community Service Grants (Title IV, Part A, section 4126).

- 21st Century Community Learning Centers (Title IV, Part B).

3. Describe how the State will monitor and provide professional development and technical assistance to LEAs, schools, and other subgrantees to help them implement their programs and meet the States' (and those entities' own) performance goals and objectives. This should include a description of assistance the SEA will provide to LEAs, schools, and other subgrantees in identifying and implementing effective instructional programs and practices based on scientific research.

4. Describe the Statewide system of support under section 1117 to ensure that all schools meet the State's academic content and student achievement standards, including how the State will provide assistance to low-performing schools.

5. Describe the activities the State will conduct to—

- a. Help Title I schools make effective use of schoolwide programs to improve the achievement of all students;

- b. Ensure that all teachers, particularly those in high-poverty areas and those in schools in need of improvement, are highly qualified. This description should include the help States will provide to LEAs and schools to—

- (i) Conduct effective professional development activities;

- (ii) Recruit and hire highly qualified teachers, including those licensed or certified through alternative routes; and

- (iii) Retain highly qualified teachers.

- Help LEAs with a high need for technology, high percentages or numbers of children in poverty, and low-performing schools to form partnerships with other LEAs, institutions of higher education (IHEs), libraries, and other private and public profit and non-profit entities with technology expertise to improve the use of technology in instruction.

- Promote parental and community participation in schools.

- Secure the baseline and follow-up data discussed in the "Framework for ESEA Accountability" section of the foregoing Supplementary Information.

6. Briefly describe how State officials and staff will coordinate the various ESEA-funded programs and State-level activities the State administers, and how the State will coordinate with other organizations, such as businesses, IHEs, nonprofit organizations and other State agencies, and with other Federal programs (including those authorized by

Individuals with Disabilities Education Act, the Perkins Vocational and Technical Education Act, the Head Start Act, the Adult Education and Family Literacy Act, and the McKinney-Vento Homeless Assistance Act).

7. Describe the strategies the State will use to determine, on a regular basis, whether LEAs, schools, and other subgrantees are making satisfactory progress in meeting State and local goals and desired program outcomes. In doing so, the SEA should also describe how it will use data it gathers from subgrantees on how well they are meeting State performance targets, and the actions the State will take to determine or revise interventions for any LEAs, schools, and other subgrantees that are not making substantial progress.

### Appendix C: Key Programmatic and Fiscal Information

The Department has an overall responsibility for ensuring the programmatic and fiscal integrity of the ESEA programs. To met this responsibility, the Department proposes that before it would award FY 2002 program funds on the basis of a consolidated application, it would need to review and approve information on how the State would comply with a few key requirements of the individual ESEA programs included in the application. In particular, the Department would need the SEA to respond to the following:

#### I. Key Program Requirements

##### 1. Title I, Part B, Subpart 3—Even Start Family Literacy

- a. Describe how the SEA will use its indicators of program quality to monitor, evaluate, and improve its projects, and to decide whether to continue operating them.

- b. Describe what constitutes sufficient program progress when the SEA makes continuation awards.

- c. Explain how the State's Even Start projects will provide assistance to low-income families participating in the program to help children in those families to achieve to the applicable State content and student achievement standards.

##### 2. Title I, Part C—Education of Migrant Children

- a. Describe the process the State will use to develop, implement, and document a comprehensive needs assessment that identifies the special educational and related needs of migrant children.

- b. Describe the State's priorities for the use of migrant education program funds in order to meet the State's performance targets for indicators 1.1, 1.2, and 2.1 as appendix A (as well as 1.4, 6.1, and 6.2 that expressly include migrant students), and how they relate to the State's assessment of needs for services.

- c. Describe how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the statutory priority for service in section 1304(d), and the availability of funds from other Federal, State, and local programs.

- d. Describe how the State will promote continuity of education and the interstate

and intrastate coordination of services for migratory children.

- e. Describe the State's plan to evaluate the effectiveness of its migrant education program and projects.

##### 3. Title I, Part D—Children and Youth Who Are Neglected, Delinquent, or At-Risk

- a. Describe the program goals, performance indicators, performance objectives, and data sources that the State has established for its use in assessing the effectiveness of the program in improving the academic and vocational and technical skills of students participating in the program.

- b. Describe how the SEA is assisting projects funded under the program in facilitating the transition of children and youth from correctional facilities to locally operated programs.

##### 4. Title I, Part F—Comprehensive School Reform

- a. Describe the process the State educational agency will use to ensure that programs funded include and integrate all eleven required components of a comprehensive school reform program.

- b. Describe the percentage of schools that participate in the Comprehensive School Reform program (CSR) meeting or exceeding the proficient level of performance on State assessments in reading and mathematics.

##### 5. Title II, Part A—Teacher and Principal Training and Recruiting Fund

- a. If not fully addressed in the State's response to the information on performance goals, indicators, and targets in Appendix A, describe the remainder of the State's annual measurable objectives under section 1119(a)(2).

- b. Describe how the SEA will hold LEAs accountable both for (1) meeting the annual measurable objectives described in section 1119(a)(2) of the ESEA, and (2) ensuring that the professional development the LEAs offer their teachers and other instructional staff is consistent with the definition of "professional development" in section 9101(34).

##### 6. Title II, Part D—Enhanced Education Through Technology

- a. Provide a brief summary of the SEA's long-term strategies for improving student academic achievement, including technology literacy, through the effective use of technology in the classroom, and the capacity of teachers to integrate technology effectively into curricula and instruction.

- b. Describe key activities that the SEA will conduct or sponsor with the funds it retains at the State level. These may include such activities as provision of distance learning in rigorous academic courses or curricula; the establishment or support of public-private initiatives for the acquisition of technology by high-need LEAs; and the development of performance measurement systems to determine the effectiveness of educational technology programs.

- c. Provide a brief description of how—

- i. The SEA will ensure that students and teachers, particularly those in the schools of high-need LEAs, have increased access to technology, and

ii. The SEA will coordinate the application and award process for State discretionary grant and formula grant funds under this program.

*7. Title III, Part A—English Language Acquisition and Language Enhancement*

a. Describe how the SEA will ensure that subgrantees use program funds only to carry out activities that reflect scientifically based research on the education of limited English proficient children while allowing those grantees flexibility (to the extent permitted under State law) to select and implement such activities in a manner that they determine best reflects local needs and circumstances.

b. Describe how the SEA will hold subgrantees accountable for meeting all annual measurable achievement objectives for limited English proficient children, and making adequate yearly progress for limited English proficient children.

*8. Title IV, Part A—Safe and Drug-Free Schools and Communities*

a. Describe the key strategies in the State's comprehensive plan for the use of funds by the SEA and the Governor of the State to provide safe, orderly, and drug-free schools and communities through programs and activities that—

- i. Complement and support activities of LEAs under section 4115(b) of the ESEA;
- ii. Comply with the principles of effectiveness under section 4115(a); and
- iii. Otherwise are in accordance with the purpose of Title IV, Part A.

**Note:** The reauthorized provisions of the Safe and Drug-Free Schools and Communities (SDFSC) Program clearly emphasize well-coordinated SEA and Governors Program activities. The statute requires that significant parts of the program application be developed for each State's program, not for the SEA and Governors Programs individually. For this reason, each State must submit a single application for SDFSC SEA and Governors Program funds. States may choose to apply for SDFSC funding through this consolidated application or through a program-specific application.

*9. Title VI, Part B, Subpart 2—Rural and Low-Income School Program*

a. Describe how the State elects to make awards under the Rural and Low-Income School Program:

- i. By formula proportionate to the numbers of students in eligible districts;
- ii. Competitively (please explain any priorities for the competition); or
- iii. By a State-designed formula that results in equal or greater assistance being awarded to school districts that serve higher concentrations of poor students.

**Note:** If a State elects this option, the formula must be submitted for ED approval. States that elect this option may submit their State-designed formulas for approval as part of this submission.

**II. Key Fiscal Information**

*1. Consolidated Administrated Funds*

a. Does the SEA plan to consolidate State-level administrative funds?

If yes, please provide information and analysis concerning Federal and other funding that demonstrates that Federal funds constitute less than half of the funds used to support the SEA.

If yes, are there any programs whose funds are available for administration that the SEA will not consolidate?

b. Please describe your plans for any additional uses of funds

*2. Transferability*

Does the State plan to transfer non-administrative State-level ESEA funds under the provisions of the State and Local Transferability Act (sections 6121 to 6123 of the ESEA)? If so, please list the funds and the amounts and percentages to be transferred, the program from which funds are to be transferred, and the program into which funds are to be transferred.

**Note:** If the State elects to notify ED of the transfer in this document, the plan described in response to provisions of appendix B should be that in effect after the transfer. If the State does not plan to transfer funds at this time, it may do so at a later date. To do so, the State must (1) establish an effective date for the transfer, (2) notify the Department (at least 30 days before the effective date of the transfer) of its intention to transfer funds, and (3) submit the resulting changes to the plan as discussed in this appendix C by 30 days after the effective date of the transfer.

*3. Program Specific Fiscal Information*

a. Title I, Part A—Improving Basic Programs Operated By LEAs

i. Identify the amount of the reservation in section 1003(a) for school improvement that the State will use for State-level activities and describe those activities.

ii. For the 95 percent of the reservation in section 1003(a) that must be made available to LEAs, describe how the SEA will allocate funds to assist LEAs in complying with the school improvement, corrective action, and restructuring requirements of section 1116 and identify any SEA requirements for use of those funds.

iii. Identify what part, if any, of State administrative funds the SEA will use for assessment development under section 1004 of the ESEA, and describe how those funds will be used.

iv. Describe the State's procedures for distributing funds for schools to use for supplemental services under section 1116(e)(7), and identify the amount of funds those schools will receive.

v. Describe how the State will use funds awarded under section 6113(b)(1) for the development and implementation of State assessments in accordance with section 6111(b)(1).

b. Title I, Part B—Even Start Family Literacy

Identify the amount of the reservation under subsection 1233(a) that the State will use for each category of State-level activities

listed in that section, and describe how the SEA will carry out those activities.

c. Title I, Part C—Education of Migratory Children

Identify the amount of funds that the SEA will retain from its Migrant Education Program (MEP) allocation, under section 200.41 of the Title I regulations (34 CFR 200.41), to carry out administrative and program functions that are unique to the MEP, and describe how the SEA will use those funds.

d. Title I, Part D—Children and Youth Who Are Neglected, Delinquent, or At-Risk

Describe how the funds reserved under section 1418 will be used for transition services for students leaving institutions for schools served by LEAs, or postsecondary institutions or vocational and technical training programs.

e. Title II, Part A—Teacher and Principal Training and Recruiting Fund.

i. Identify the amount of the State's total allocation for Title II, Part A funds that would be reserved for administration and planning (administration) costs under section 2113(d) and the amount of those funds that would be provided to the SEA and State agency for higher education (SAHE), respectively. The total amount that a State may reserve for administration may not exceed 1 percent of the State's total allocation under Part A of Title II.

**Note:** While the statute authorizes an SEA and SAHE to reserve program funds for administrative expenses, it does not prescribe how those funds are to be apportioned between the SEA and SAHE. The Department is proposing that the two entities determine together how much of the State's total administrative set-aside each entity would receive. The Department also proposes that it would not award any of the Title II, Part A funds available to the State for administration unless the Department receives information that identifies (1) the total amount that the State would reserve for administrative costs; (2) the amount that would be made available to the SEA and the SAHE, respectively, for administration; and (3) an assurance that named senior officers of the SEA and the SAHE have agreed to the apportionment of State administrative funds.

The Department will provide further guidance on within-State allocations of Title II, Part funds reserved for administration in the Title II, Part A nonregulatory guidance it is developing for the program.

ii. Describe how the SEA will use funds reserved for State activities described in section 2113(c) of the ESEA to meet the teacher professional development and paraprofessional requirements in section 1119.

f. Title III, Part A—English Language Acquisition and Language Enhancement

In order that the Department may make FY 2002 State program allocations, provide the most recent data available on—

i. A total amount not to exceed 5 percent of the State's allotment may be reserved by the State under section 3111(b)(2) to carry out one or more of the following categories

of State-level activities: professional development; planning, evaluation, administration, and interagency coordination; technical assistance; and providing recognition to subgrantees that have exceeded their annual measurable achievement objectives. Specify the percentage of the State's allotment that the State will reserve and the percentage of the reserved funds that the State will use for each of the categories of activities.

ii. A total amount not to exceed 15 percent of the State's allotment must be reserved by the State under section 3114(d)(1) to award subgrants to eligible entities that have experienced a significant increase in the percentage or number of immigrant children and youth. Specify the percentage of the State's allotment that the State will reserve for these subgrants.

iii. The number of limited English proficient children in the State. (See definitions of "child" in section 3301(1), and "limited English proficient" in section 9101(25).)

vi. The most recent data available on the number of immigrant children and youth in the State. (See definition of "immigrant children and youth" in section 3301(6).)

**Note:** Section 3111 of the ESEA requires that State allocations for the Language Acquisition State grants be calculated on the basis of the number of limited English proficient children in the State compared to the number of such children in all States (80 percent) and the number of immigrant children and youth in the State compared to the number of such children and youth in all States (20 percent). The Department plans to use data from the 2000 Census Bureau to calculate State shares of limited English proficient students. However, these data on limited English proficient students will not be available for all States until September 2002. To ensure that States have access to funds as soon as they are available, the Department proposes, for FY 2002 only, to provide an initial distribution of 50 percent of the funds under the limited English proficient portion of the formula based on State-reported data. As soon as Census data become available, the Department will recalculate and make final State allocations using Census data.

For the 20 percent of formula funds distributed to States based on State shares of immigrant children and youth, the Department intends to use State-reported data in allocating these funds. Census does not collect data that can be used to calculate State allocations for this part of the formula.

g. Title IV, Part A, Subpart 1, Section 4112(a)—Safe and Drug-Free Schools and Communities: Reservation of State Funds for the Governor

i. The Governor may reserve up to 20 percent of the State's allocation under this program to award competitive grants or contracts. Indicate the percentage of the State's allocation that is to be reserved for the Governor's program.

ii. The Governor may administer these funds directly or designate an appropriate State agency to receive the funds and administer this allocation. Provide the name

of the entity designated to receive these funds, contact information for that entity (the name of the head of the designated agency, address, telephone number) and the "DUNS" number that should be used to award these funds.

h. Title IV, Part A, Subpart 2, Section 4126—Safe and Drug-Free Schools and Communities: Community Service Grants

The statute provides for grants to States to carry out programs under which students expelled or suspended from school are required to perform community service. The Department proposes to award funds available under this program to State educational agencies, after they have consulted with their Governors. SEAs and LEAs in some States are already implementing community service activities for students, and we believe that awards to SEAs are most likely to result in the integration of these program funds into a more comprehensive, coordinated strategy. Although the statutory language for this program would permit the Department to award grants to a Governor, or to another entity designated by the Governor, we believe that most students eligible to benefit from this program are likely to be served by SEAs or LEAs. We would like to receive comments on our tentative plan for awarding grants under this program.

- Describe how funds will be used by the designated entity(ies) to develop and implement a community service program for suspended and expelled students.

i. Title V, Part A—Innovative Programs

i. In accordance with section 5112(a)(1) of the ESEA, provide the SEA's formula for distributing program funds to LEAs. Include information on how the SEA will adjust its formula to provide higher per-pupil allocations to LEAs that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as—

- Children living in areas with concentrations of economically disadvantaged families;
- Children from economically disadvantaged families; and
- Children living in sparsely populated areas.

ii. Identify the amount the State will reserve for State-level activities under section 5121, and describe those activities.

#### Appendix D: Assurances

1. *General and Cross-Cutting Assurances.* Section 9304(a) requires States to have on file with the Secretary, as part of their consolidated application, a single set of assurances, applicable to each program included in the consolidated application, that provide that—

a. Each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

b.i. The control of funds provided under each such program and title to property acquired with program funds will be in a public agency, a nonprofit private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

ii. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

c. The State will adopt and use proper methods of administering each such program, including—

i. The enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

ii. The correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

iii. The adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

d. The State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

e. The State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

f. The State will—

i. Make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

ii. Maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

g. Before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on the plan or application and considered such comment.

2. *ESEA Specific Assurances and Crosscutting Declaration.* Each SEA that submits a consolidated application also must provide an assurance that they will—

a. Comply with all requirements of the ESEA programs included in their consolidated applications, whether or not the program statute identifies these requirements as a description or assurance that States would have addressed, absent this consolidated application, in a program-specific plan or application, and

b. Maintain records of their compliance with each of those requirements.

**Note:** For the Safe and Drug-Free Schools programs, the SEA must have all appropriate assurances from the Governor on record.

Through this general assurance and assurance (1) in section 9304(a), the SEA agrees to comply with all requirements of the ESEA and other applicable program statutes. While all requirements are important, we have identified a number of those to which we believe SEAs should pay particular attention in order to ensure the effective use of ESEA program funds in promoting increased student achievement. The Department will include in the application package for the consolidated application and on its website a list of these requirements of individual programs that the SEA, through its assurances, is agreeing to meet. At the same

time we stress that the list of program-specific requirements that the SEA is assuring the Department it will meet is not meant to be exhaustive and that States are accountable for all program requirements.

3. *Cross-Cutting Declaration: Certification of Compliance with Unsafe School Choice Option Requirements.* The State certifies that it has established and implemented a Statewide policy requiring that students attending persistently dangerous public elementary or secondary schools, as determined by the State (in consultation with a representative sample of local educational agencies), or who become victims of violent criminal offenses, as determined by State law, while in or on the grounds of public elementary and secondary schools that the students attend, be allowed to choose to attend a different, safe public elementary or secondary school (which may include a public charter school) within the local educational agency.

#### **Appendix E: Enhanced Assessment Instruments Competitive Grant Program (Title VI, section 6112)—Program Information and Proposed Selection Criteria**

*Overview.* Proficiency on State assessments required under Title I, Part A of the ESEA is the primary indicator in the ESEA of student academic achievement and, hence, the primary measure of State success in meeting the goals of No Child Left Behind. In view of the critical importance of these State assessments, section 6112 of the ESEA authorizes the Secretary to make competitive grant awards to State educational agencies (SEAs) to help them enhance the quality of assessment and accountability systems.

Because of the close relationship between this program and Title I, Part A, section 6112 requires States wishing to apply for these grants to include their applications in the State plans they prepare under Title I, Part A. For this reason, the Secretary has designated this program for voluntary inclusion in a State's ESEA consolidated application even though it is not a formula grant program. In doing so, the Secretary proposes the following procedures and requirements to be used under this competition.

*Eligible applicants.* By law, all eligible applicants must be SEAs or consortia of SEAs. An application from a consortium of SEAs must designate one SEA as the fiscal agent.

*Proposed Award Amounts and Timelines.* The statute requires that any funds appropriated in excess of the required amount for State assessment formula allocations (section 6111) be allocated as competitive grants. From the amount appropriated, approximately \$17 million is available for the upcoming fiscal year 2002 competition. Subject to the minimum size of award provided in section 6113(b)(2)(A)(ii) (which is based on a State's enrollment of students ages 5–17), the Department estimates that it will make 20 awards ranging from \$300,000 to \$2,000,000, with an average size of \$850,000.

The Department expects to require that all applications be submitted on or before

September 15, 2002, and to make awards by December 1, 2002. Project periods would run until September 30, 2004.

*Application requirements.* Section 6112(a) requires that all funded applications demonstrate that States (or consortia of States) will—

1. Collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments *beyond the requirements* for the assessments described in section 1111(b)(3) of Title I, Part A;
2. Measure student academic achievement using multiple measures of student academic achievement from multiple sources;
3. Chart student progress over time; or
4. Evaluate student academic achievement through the development of comprehensive academic assessment instruments, such as performance and technology-based academic assessments.

*Proposed competitive preferences.* There is a great need for enhancing assessment instruments so that they take into consideration alternatives for assessing students with disabilities and limited English proficient students. In addition, we believe that collaborative efforts between and among States and effective dissemination of project results will yield procedures that can be applied in varied contexts, reinforcing the flexibility of the statute while increasing the likelihood that projects will result in significant improvement of State assessment systems.

For these reasons, the Secretary proposes the following competitive preferences and would award up to 35 points to an applicant based on how well its application meets these preferences. These preference points would be in addition to points an applicant earns under the selection criteria.

1. Alternate assessments. (20 points)  
Applications that can be expected to advance practice significantly in the area of assessment of students with disabilities or limited English proficiency, or both, including strategies for test design, administration with accommodations, scoring, and reporting.
2. Collaborative efforts. (10 points)  
Applications that are sponsored by a consortium of States.
3. Dissemination. (5 points)  
Applications that include an effective plan for dissemination of results.

*Proposed selection criteria.* The Secretary proposes to use the following criteria and weights authorized by sections 75.209–210 of the Education Department General Administrative Regulations (EDGAR):

1. Need for the Project (10 Points)
  - The magnitude and severity of the problem to be addressed by the proposed project;
  - The extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure; and
  - The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals.

#### 2. Scope (10 Points)

- The extent to which the goals and objectives to be achieved by the proposed project are clearly specified and measurable, and
- The extent to which the goals and objectives are sufficiently broad to be likely to result in significant change or improvement of one or more State assessment systems.

#### 3. Significance (15 Points)

- The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies;
- The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study;
- The extent to which the proposed project is likely to yield findings that may be used by other appropriate agencies and organizations; and
- The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

#### 4. Quality of Project Design (30 Points)

- The extent to which there is a conceptual framework underlying the proposed research or demonstration activities, and the quality of that framework;
- The quality of the proposed design and procedures for documenting project activities and results;
- The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project;
- The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance;
- The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice;
- The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements; and
- The quality of the methodology to be employed by the proposed project.

#### 5. Quality of the Management Plan (5 Points)

- The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks; and
- The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

#### 6. Quality of Project Personnel (10 Points)

- The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented

based on race, color, national origin, gender, age, or disability;

- The qualifications, including relevant training and experience, of the project director or principal investigator;

- The qualifications, including relevant training and experience, of key project personnel; and

- The qualifications, including relevant training and experience, of project consultants or subcontractors.

#### 7. Adequacy of Resources (10 Points)

- The adequacy of support, including facilities, equipment, supplies, and other resources from the SEA or the lead applicant SEA;

- The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

- The extent to which the budget is adequate to support the proposed project.

#### 8. Quality of Evaluation Plan (10 Points)

- The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

- The extent to which the methods of evaluation are appropriate to the context within which the project operates;

- The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible; and

- The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other situations.

### Appendix F—Optional Interim Application for FY 2002 Funds Under the Safe and Drug-Free Schools and Communities State Grants Program (Title IV, Part A, Subpart 1)

The Safe and Drug-Free Schools and Communities State Grants program authorizes States that desire to submit a program-specific application for FY 2002 funds to do so in either of two ways. A State may either submit (1) the comprehensive State application described in section 4113(a) of the ESEA or (2) an interim application that, under section 4113(b), offers the State an opportunity to fully develop and submit the comprehensive application prior to its receipt of fiscal year 2003 funds under the program. Section 4113(b)(1) provides that the content of the interim application must be consistent with the requirements of that section of the law and contain the information that “the Secretary may specify in regulations.” So that States may understand their various options for applying for Safe and Drug-Free Schools and Communities State Grants program, the Department is using the vehicle of this notice to propose rules for this interim program application for FY 2002 funds.

The Department proposes that States that desire to use this interim application to apply for FY 2002 Safe and Drug-Free Schools and Communities State Grants program funds be required to submit the following:

- A description of how the SEA will coordinate the agency’s activities under this subpart with the chief executive officer’s drug and violence prevention programs and with the prevention efforts of other State agencies and other programs, as appropriate.

The State’s performance measures for drug and violence prevention programs and activities to be funded under this subpart, which will be focused on student behavior and attitudes, derived from the State’s needs assessment in section 4113(a)(9), developed through consultation between the State and local officials, and include levels of performance for each indicator.

The State must submit performance measures for the following indicators, as well as for other indicators that it identifies as appropriate based on its analysis of need and its comprehensive plan for use of funds:

*Performance indicator 1:* The percentage of students who carried a weapon (for example, a gun, knife, or club) on school property (in the 30 days prior to the survey).

*Performance indicator 2:* The percentage of students who engaged in a physical fight on school property (in the 12 months preceding the survey).

*Performance indicator 3:* The percentage of students offered, sold, or given an illegal drug on school property (in the 12 months preceding the survey).

*Performance indicator 4:* The number of persistently dangerous schools, as defined by the State.

- A description of how the State educational agency will review applications from local educational agencies, including how the agency will receive input from parents in such review.

- A description of how the State educational agency will monitor the implementation of activities, and provide technical assistance for local educational agencies, community-based organizations, other public entities, and private organizations.

- A description of how the chief executive officer of the State will award funds under section 4112(a) and implement a plan for monitoring the performance of, and providing technical assistance to grant recipients.

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## DEPARTMENT OF EDUCATION

### President’s Board of Advisors on Historically Black Colleges and Universities Meeting

**AGENCY:** President’s Board of Advisors on Historically Black Colleges and Universities, U.S. Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and agenda of the meeting of the President’s Board of Advisors on Historically Black Colleges and Universities. This notice also describes

the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. Individuals who will need accommodations for a disability in order to attend the meeting (i.e. interpreting services, assistive listening devices, materials in alternative format) should notify Treopia Washington at 202-502-7900 by not later than Monday, March 11, 2002.

*Date and Time:* Tuesday, March 19, 2002 from 5 p.m. to 7 p.m. & Wednesday, March 20, 2002 from 8:30 a.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the Madison Hotel, 15 & M Street, NW., Washington, DC 20005

**FOR FURTHER INFORMATION CONTACT:** Ms. Beverly Ward, White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue, SW., Suite 7C103, Washington, DC 20202. Telephone: (202) 401-1311.

**SUPPLEMENTARY INFORMATION:** The President’s Board of Advisors on Historically Black Colleges and Universities was established under Executive Order 13256 of February 12, 2002. The Board was established to advise on federal policies that impact upon Historically Black Colleges and Universities, to advise on strategies to increase participation of Historically Black Colleges and Universities in federally sponsored programs and funding opportunities, and to advise on strategies to increase private sector support for these colleges. The meeting of the Board is open to the public. The meeting will focus on the status and future of federal agency support for Historically Black Colleges and Universities. Records are kept of all Board procedures and are available for public inspection at the White House Initiative on Historically Black Colleges and Universities located at 1990 K Street, NW., Suite 8099, Washington, DC 20006, from the hours of 8:30 a.m. to 5 p.m.

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