

September 25, 2009

Dr. Zollie Stevenson, Jr.  
U.S. Department of Education  
400 Maryland Avenue, SW., Room 3W230  
Washington, DC 20202-7241  
Re: Docket ID ED-2009-OESE-0010 School Improvement Grants

Dear Dr. Stevenson,

We enthusiastically support the Administration's focus on rapidly and dramatically improving the nation's lowest performing schools and its commitment to doing right by the students—largely low-income and minority—who attend them. These students, their families, and our communities deserve better—and our nation absolutely *can* do better.

The Department has, in this proposal, taken an important step forward with the requirement that states and districts deploy a more diverse and fundamental set of interventions than have been undertaken with federal School Improvement Grants in recent years. Thus far, most states have not pursued corrective actions and school restructuring with the vigor and comprehensiveness envisioned under the current authorization of the Elementary and Secondary Education Act, despite the fact that the systemic deficiencies in the lowest performing schools and districts call out for aggressive action. Absent strong federal prodding, there is little reason to believe that states and districts will tackle the obstacles necessary to provoke real change in low-performing schools.

The School Improvement Grants hold the potential to provide both the pressure and the resources—an unprecedented \$3.5 billion for school improvement, over and above the \$4.35 billion in incentive grants and \$650 million in innovation grants—to spark ambitious, transformative reforms where they're most needed.

Our comments are aimed at ensuring that the regulations are powerful enough to do the following:

- break through inertia and compliancy around intolerably low-school performance at the local and state levels,
- ensure that resources reach the schools and students that most need them, and
- secure meaningful information about the results of this unprecedented federal investment.

### **Identifying High-Priority Schools**

The notice of proposed School Improvement Grant requirements places much-needed emphasis on taking action in our nation's persistently lowest performing schools, including high schools that have for years been deprived of critical resources and attention. How states identify their high-priority schools is key to the School Improvement Grant Program's success. Our comments in this section seek to:

- ensure that high schools receive the attention they require and the Department intends them to receive, and
- close loopholes that may allow states to bypass some of their lowest performing schools.

*Ensuring Necessary Attention to High Schools*

We applaud the emphasis that the notice of proposed requirements places on struggling secondary schools. Many high schools have gone years without receiving the attention or resources they need because, even though they serve high percentages of poor and minority students, they are not technically “Title I schools.” We strongly support the proposed authority that would allow states to funnel improvement funds toward these (high-poverty/ low-achieving) schools.

We are concerned, however, that current requirements will not result in the level of focus on high schools that the Department is seeking. First, states have considerable leeway in identifying Tier II schools: They define both what it means to be a “lowest achieving school” and a “similarly” lowest achieving secondary school. Given the challenges associated with turning around high schools and the fact that these non-Title I schools do not officially generate revenues for LEAs, SEAs are likely to face pressure to identify as few of these schools as possible.

We recommend that the Department strengthen the emphasis on high school turnaround by requiring that the percentage of Tier I and Tier II schools that are high schools be at least equal to the percentage of all schools statewide that are high schools. For example, if 25 percent of schools in the state are high schools, at least 25 percent of Tier I and Tier II schools (combined) should be high schools as well.

Second, though the Secretary frequently has stressed the need to intervene in our nation’s dropout factories, the proposed definitions of Tier I and Tier II schools do not take graduation rates into account. Considering graduation rates when identifying the lowest achieving high schools is critical—and not only because the graduation rate itself is a key indicator of high school quality. Because students who are academically behind are far more likely to drop out than students who are on grade level, high schools with low graduation rates also are likely to have artificially inflated test scores. Unless graduation rates are explicitly considered, such schools will be even less likely to be identified as Tier I or Tier II.

We recommend that the Department require SEAs to look at absolute performance and progress on (1) state mathematics and reading/language arts exams and (2) four-year cohort graduation rates when identifying lowest achieving high schools.

Specifically, we recommend adding bullet (I)(A)(1)(d) to the SEA Priorities in Awarding School Improvement Grants section, as follows:

***Section (I)(A)(1)(d):***

When identifying Tier I and Tier II schools, the SEA must ensure that high schools make up at least as large a percentage of Tier I and Tier II schools as they do of all schools in the state. For example, if 25 percent of schools in the state are high schools, at least 25 percent of Tier I and Tier II schools (combined) must be high schools as well.

Language regarding the inclusion of graduation rates in identifying Tier I and Tier II high schools appears in the *Progress* section that follows.

### *Progress*

We strongly support the Department’s emphasis on using a combination of absolute performance and progress on state assessments in identifying Tier I and Tier II schools.

However, we are concerned about the proposed definition of a “school that has not made progress.” The definition assumes that proficiency rates in reading and math are improving, on average, from one year to the next. Although this is true in many states, proficiency rates in some states have been nearly flat, and in others they have declined.

We propose that this definition be modified as follows:

***Section (I)(A)(1)(a)(ii):***

A school that has not made progress means a school whose gains on the assessment in the “overall students” category are less than zero or, in the case where positive gains are made, whose gains in the “overall students” category are lower than the average gains of schools in the state on that assessment in this category.

Furthermore, we are concerned that the proposed phrasing of the “lowest achieving” definition in Section (I)(A)(1)(a)(i), which calls on states to look at “absolute performance and the school’s lack of progress” implies that any school that has made greater than average gains—which in some cases could mean simply not losing ground—could be excluded from being identified as a Tier I or Tier II school. We recommend changing this section as follows:

***Section (I)(A)(1)(a)(i):***

In determining the lowest achieving Title I schools in the state, an SEA must consider both the absolute performance of a school on the state’s assessments in reading/language arts and mathematics and the extent to which the school has or has not made progress on those assessments over a number of years as defined in paragraph (a)(ii). When identifying lowest achieving high schools, the state also must consider both the most recent four-year cohort graduation rate (as defined in this notice) and the extent to which schools have improved their graduation rate.

### *Transparency*

Although we recognize that the notice of proposed requirements does not address the content of the state application, we strongly encourage the Department to require that states report detailed definitions—consistent with requirements outlined in the notice and including specific numerical benchmarks (such as proficiency rates and percentage-point gains or declines)—that the state will use to identify lowest achieving elementary/middle schools and lowest achieving high schools. Without such information, the Department and the public will be unable to hold states accountable for identifying schools based on the criteria they set. In addition, we recommend the Department should require states to provide a list of their Tier I, Tier II, and Tier III schools, respectively, so that the Department can track the percentage of schools in each tier that received services under the School Improvement Grant program. The Department, in turn, should make SEA applications available to the public via its Web site to ensure transparency.

## **Ensuring That Funding and Attention Get to the Schools That Need Them Most**

Of course, it will not matter which schools states identify as Tier I or Tier II schools if funds and meaningful reform don't get to them. In this section, our comments focus on ensuring that states and districts are unable to proceed with the sort of lackluster "business as usual" approaches that characterized school-improvement efforts during the tenure of the previous administration.

### *Aligning the Definition of "Greatest Need" With the Department's Intentions*

We strongly support the requirement that SEAs give higher priority to LEAs that, in their applications, commit to serving Tier I and Tier II schools. We recommend that the definition of "greatest need" (within the SEA Priorities in Awarding School Improvement Grants (A)(1) section), which currently places an LEA with a Tier III school at the same level of priority as an LEA with a Tier I or Tier II school, be brought in line with this requirement.

We recommend modifying the definition of "greatest need" as follows:

#### ***Section (I)(A)(1):***

*Greatest need:* An LEA with the greatest need for a School Improvement Grant must have one or more schools in Tier I or Tier II, as defined below; LEAs that only have Tier III schools will receive the next highest priority.

### *Ensuring That Funds Are Used to Bring About Real Change*

We applaud the Department's proposal that LEAs use one of the four intervention options outlined in the notice in each of the Tier I and Tier II schools they agree to serve, and that LEAs with a large number of Tier I and Tier II schools use of a diverse mix of intervention approaches.

We are concerned, however, that the notice of proposed requirements allows LEAs to claim a lack of capacity to serve all their Tier I schools using these interventions, while still receiving funds to serve Tier III schools in a more flexible manner. For example, a district with ten Tier I, five Tier II, and twenty Tier III schools could request and receive funding to intervene in a single Tier I school, no Tier II schools, and fifteen Tier III schools.<sup>1</sup> We believe that this flexibility not only will allow districts to virtually ignore the schools with the greatest need, but it also opens the door for the majority of funding to be targeted toward "light touch" school-improvement strategies that repeatedly have proved ineffective.

We propose requiring that unless an LEA agrees to serve all of its Tier I and Tier II schools, the number of Tier III schools funded within that LEA cannot exceed the number of Tier I and Tier II schools the LEA serves. For example: LEA 1 has three Tier I schools, two Tier II schools, and ten Tier III schools. It states that it has capacity to take on only one Tier I school and one Tier II school. Under our proposal, LEA 1 would be able to receive funding for its two Tier I and Tier II schools, and no more than two Tier III schools. We believe this will ensure that scarce funds and improvement efforts are invested where they

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<sup>1</sup> By agreeing to serve a single Tier I school, this LEA technically already would meet the proposed requirement that "an LEA that has one or more Tier I schools would not be permitted to apply for a grant to serve only Tier III schools" (p. 43105).

are most needed, rather than where the LEA sees “low hanging fruit” or from where the greatest political pressure for funding is generated.

We recommend modifying current Section (II)(A)(6) as follows:

***Section (II)(A)(6):***

Unless an LEA that has one or more Tier I or Tier II schools agrees to serve all of these schools, the number of Tier III schools funded within that LEA cannot exceed the number of Tier I and Tier II schools served.

And we recommend adding the following paragraph *prior to current Section (II)(B)(3)* and renumbering accordingly.

***Section (II)(B)(3):***

When allocating funds, the SEA must ensure that unless an LEA with one or more Tier I or Tier II schools will serve all of these schools, the number of Tier III schools funded within that LEA does not exceed the number of Tier I and Tier II schools served.

**Setting Meaningful Expectations for All Schools Receiving Grant Funds**

In the August 26, 2009 *Federal Register* notice, the Department requested comments on the accountability measures described in Section (II)(A)(7). We strongly support the proposal that the renewal of each LEA’s School Improvement Grants for two additional years be contingent on the extent to which its schools are on track to meeting specific performance targets.

We are concerned, however, that allowing LEAs to set targets for their own Tier I and Tier II schools will result in expectations for improvement that are far too low. And we are concerned by the minimal accountability structure for Tier III schools that benefit from School Improvement funds. Tier III schools stand to receive a lot of money under this grant program, and the public deserves to know the outcomes of school-improvement efforts funded with this money.

We recommend that each SEA develop a set of performance targets for all of its Tier I, Tier II, and Tier III schools and report these targets to the Department in its application. These targets may differ for Tier I, Tier II, and Tier III schools, respectively, but the same target must apply to all schools within the same tier, and to all student subgroups within these schools. Targets may be set at a certain proficiency level (e.g., the percentage of students that should be proficient in math and reading within two years), relative to district or state performance (e.g., Tier I and Tier II schools should be performing at the district average within two years), or based on improvement (e.g., schools must improve the percentage of students proficient by X percentage points in two years). High school performance targets should include state-assessment goals as well as graduation goals. These goals should be transparent to the public, and continued funding should be contingent on school performance relative to these targets.

We suggest modifying Section (II)(A)(7) as follows:

***Section (II)(A)(7):***

The LEA must hold each Tier I, Tier II, and Tier III school it commits to serve annually accountable for meeting, or being on track to meet, performance goals established by the SEA for all schools in that tier (as described in Section (II)(B)(4)) with respect to the achievement of all students in each school, as well as each subgroup of students identified in 34 CFR 200.13(b)(7) and for making progress on the leading indicators described in Section III of this notice. If an LEA proposes to implement a restart model, it must also describe how it will hold the charter school operator, CMO, or EMO accountable for meeting, or being on track to meet, the SEA's student-achievement goals and making progress on the leading indicators.

We also recommend replacing current Section (II)(B)(3) with the following:

***Section (II)(B)(4) (Renumbered in accordance with prior comment):***

An SEA must set rigorous three-year student-performance goals in reading/language arts, mathematics, and four-year cohort graduation rates (for high schools only) for all Tier I, Tier II, and Tier III schools. These targets may be different for Tier I, Tier II, and Tier III schools, respectively, but the same target must apply to all schools within the same tier as well as to each subgroup of students identified in 34 CFR 200.13(b)(7) within these schools. The SEA may set targets based on absolute performance (e.g., X percent of students will be proficient in math, or X percent of students will graduate within four years), relative to district or state performance (e.g., Tier I and Tier II schools should be performing at the district average within two years), or based on improvement (e.g., schools must improve the percentage of students proficient by X percentage points in three years). The state must ensure that these performance targets are presented to parents, educators, and the general public in a straightforward manner.

Finally, we recommend modifying Section (II)(C) as follows:

***Section (II)(C):***

An SEA must renew an LEA's School Improvement Grant for two additional one-year periods if the LEA demonstrates that its Tier I, Tier II and Tier III schools are meeting, or are on track to meet, the SEA's student achievement goals (for schools in that tier) with respect to all students in the school, as well as each subgroup of students identified in 34 CFR 200.13(b)(7), and are making progress on the leading indicators described in Section III of this notice. If an SEA does not renew an LEA's School Improvement Grant because the LEA's participating schools are not meeting or on track to meet these student achievement goals, the SEA may reallocate those funds to other eligible LEAs, consistent with the requirements of this notice.

**Ensuring Meaningful Information on the Results of Improvement Efforts**

We believe that the leading and outcome metrics described in Section (III)(A) will provide useful information to the Department and the public. Our comments are aimed primarily at clarifying the data-collection requirements to ensure that the Department receives sufficient information via this data collection to give these indicators meaningful context. In addition, we recommend that the Department add one more indicator: the percentage of high school students completing a college and career-ready course of study.

*Ensuring Meaningful Data on College/Career Readiness and Participation in Advanced Coursework*  
Although Advanced Placement or advanced coursework are important indicators of which students are taking higher level courses in a given subject, it also is important to know the percentage of students who are graduating having taken the full range of courses that will allow them to succeed in college and a career.

We therefore propose adding the following indicator to Section III (A):

**Section (III)(A)(3) Table (Additional Indicator):**

Number and percentage of high school students who graduated in *reporting year* who completed a college and career-ready course of study, as defined by the state or, where the state has not defined a college and career-ready course of study, a course of study aligned with entrance requirements to the state’s public postsecondary institutions.

We also propose to require that in its application to the Department, each SEA specifically define “advanced coursework” and list the courses included in its “college and career-ready course of study.”

*Ensuring Availability of Meaningful Information on Leading and Outcome Indicators*

In the school-improvement context, both leading and outcome indicators are far more meaningful over time than as a single data snapshot. The notice of proposed requirements does not specify whether the data will be collected one time or over the duration of the grant. We recommend that leading and outcome indicators be collected for each Tier I, Tier II, and Tier III school for the two years prior to intervention and for all three years that the LEA receives grant funds.

Outcome indicators are particularly meaningful if the performance of Tier I, Tier II, and Tier III schools can be compared with other schools in the state. We recommend requiring that data on scale scores, the number and percentage of students enrolled in advanced coursework, and the number and percentage of students completing a college and career-ready course of study be collected for all schools in districts that receive School Improvement funds, not just these districts’ Tier I, Tier II, and Tier III schools. We recommend that these data be collected for the two years prior to intervention and for all three years that the LEA receives grant funds.

We suggest modifying Section (III)(A)(3) as follows:

**Section (III)(A)(3):**

For any Tier I, Tier II, or Tier III school, school-level data on the metrics designated on the following chart as “SIG” (School Improvement Grant) for school years 2009 and 2010 (baseline), as well as for each year that the school receives funds under this program. Metrics labeled as “SIG” and “Outcome” will be collected for each school (regardless of tier status) in LEAs that receive funds under this program.

*Request for Clarification*

The table in Section (III)(A) states that the Department will collect “average scores on state assessments across subgroups—scale scores by quartile.” We recommend clarifying that the Department will be collecting “average scale scores on reading/language arts, mathematics, science, and where available, social studies assessments (respectively), for all students and by subgroup” by modifying the text in the Section (III)(A)(3) chart as follows:

***Section (III)(A)(3) Table (Replacement text for “Average scores on state assessments across subgroups – scale scores by quartile”):***

Average scale scores on reading/language arts, mathematics, science, and where available, social studies assessments (respectively), for all students and by subgroup.

*Additional Issues*

Federal school-improvement policy, especially policy aimed at underperforming high schools, ideally should be developed as part of a comprehensive reauthorization of the ESEA. However, many thousands of schools—notably high schools with high percentages of low-income students and students of color—desperately need help now.

We believe that the Department of Education’s proposed regulations, if amended to address the concerns raised in this memorandum, represent the best possible stopgap. Their adoption would deliver pressure and support where they are most urgently needed, while not inhibiting the development of more comprehensive and systemic approaches during ESEA reauthorization.

In fact, we strongly oppose any measures, regulatory or legislative, that would separate consideration of federal policy on high schools from the ESEA reauthorization. Severing high school policy from the rest of K-12 policy would only reinforce our nation’s already-fragmented approach to education.

Although the recommendations in this memorandum would strengthen accountability provisions proposed in this notice, they should in no way be seen to presage what we would endorse as the right accountability system for a reauthorized ESEA, which should be developed in the context of a full review of all aspects of current law. We look forward to working with the Administration to craft a stronger, more effective law. Meanwhile, we are pleased that the Administration is taking steps now that will bring overdue and urgently needed help to students in the nation’s weakest schools.

Signed,

Democrats for Education Reform  
Education Equality Project  
The Education Trust