



This document is scheduled to be published in the Federal Register on 04/13/2012 and available online at <http://federalregister.gov/a/2012-08974>, and on FDsys.gov

4000-01-U

DEPARTMENT OF EDUCATION

State Personnel Development Grants; Proposed priorities and definitions; CFDA Number 84.323A

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes priorities and definitions under the State Personnel Development Grants (SPDG) program. The Assistant Secretary may use one or more of these priorities and definitions for competitions in fiscal year (FY) 2012 and later years. We take this action to assist State educational agencies (SEAs) to make their systems of professional development more effective and efficient through the provision of evidence-based, ongoing professional development that uses technology to support the implementation of evidence-based practices.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Address all comments about this notice to Jennifer Coffey, U.S. Department of Education, 400 Maryland

Avenue, SW., room 4097, Potomac Center Plaza (PCP),
Washington, DC 20202-2600.

If you prefer to send your comments by e-mail, use the following address: jennifer.coffey@ed.gov. You must include the term "SPDG Priorities and Definitions" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Jennifer Coffey.

Telephone: (202) 245-6673.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities and definitions, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities and definitions. Please let us know of any further ways we could reduce potential costs or increase potential benefits

while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 4097, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of this program is to assist SEAs in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

Statutory Requirements: Applicants under the SPDG program must meet the statutory requirements in sections 651 through 654 of the Individuals with Disabilities Education

Act (IDEA), including the application requirements in section 653 and the use of funds requirements in section 654. Because the priorities and definitions proposed in this notice would supplement these statutory requirements, applicants should familiarize themselves with the statutory requirements they must also meet to receive funding under this program.

In addition, section 651(b) of the IDEA defines the term "personnel," as it is used in connection with the SPDG program. This definition would apply to the priorities in this notice as well. Under section 651(b) of the IDEA, the term "personnel" means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

Program Authority: 20 U.S.C. 1451-1455.

PROPOSED PRIORITIES:

This notice contains two proposed priorities.

Proposed Priority 1--Effective and Efficient Delivery of Professional Development

Background:

The purpose of the SPDG program is to assist SEAs in reforming and improving their systems for personnel preparation and professional development of individuals providing early intervention, educational, and transition services in order to improve results for children with disabilities. High-quality, comprehensive professional development programs are essential to ensure that the persons responsible for the early intervention of infants and toddlers, and the education, or transition of children with disabilities possess the skills and knowledge necessary to address the early intervention, educational, and related services needs of those infants and toddlers or children. Through this priority, we seek to support (a) evidence-based (as defined in this notice) professional development for personnel serving infants, toddlers, preschoolers, or children with disabilities, (b) ongoing assistance to personnel in early intervention programs and local educational agencies (LEAs) receiving SPDG-supported professional development to implement evidence-based practices, and (c) using technology to more efficiently and effectively provide ongoing professional development to personnel.

Evidence-based Professional Development

Professional development enables teachers to learn new and evidence-based practices and to master new skills (Wei, Darling-Hammond, & Adamson, 2010). Professional development that emphasizes skill building and classroom practices can help teachers build competence that leads to the continued use of new and evidence-based practices (American Educational Research Association, 2005). There is evidence indicating that the following components of effective professional development can lead to more successful implementation of new practices: (1) professional development participants, trainers, and coaches who have the prerequisite knowledge and skills; (2) effective training practices that are based on adult learning principles and that focus on building the skills of the participants; (3) ongoing coaching; (4) performance assessments; and (5) administrative support for implementation of the new practices (Boudah, Logan, & Greenwood, 2001; Fixsen, Naoom, Blase, Friedman, & Wallace, 2005; Fullan, 2005). For more information on these critical components of professional development, please visit www.signetwork.org/content_pages/205. In this priority, therefore, we propose to require SPDG projects to use evidence-based professional development practices, consistent with these components.

Ongoing Assistance that Supports Implementation

A great deal of professional development may be necessary for personnel to feel competent in implementing a new practice--especially a practice that is complex (Cook et al., 2003; Gersten & Dimino, 2001; Slavin, 2004). Studies suggest that the more time teachers spend developing their knowledge and skills through evidence-based professional development, the more significantly they change their practices (Louis & Marks, 1998; U.S. Department of Education, 2001). Ongoing training, coaching, and other types of support are necessary for teachers to implement new evidence-based practices because although teachers receiving training may initially implement at least some of these practices, implementation rates can drop by 20 percent to 60 percent one year after training (Wei, Darling-Hammond, & Adamson, 2010). In addition, when schools have high rates of staff turnover (as high as 50 percent for new teachers), ongoing professional development is a critical means of ensuring new staff have the necessary knowledge and skills to effectively implement educational programs (Elias, Zins, Graczyk, & Weissberg, 2003). Accordingly, through this proposed priority, we require SPDG projects to provide personnel receiving SPDG-supported professional development

with ongoing assistance to support these personnel in implementing evidence-based practices in the manner in which the practices are designed to be delivered.

Use of Technology

Training and coaching for professional development participants is expensive; however, use of technology (e.g., bug-in-ear technology for coaching) has the potential to significantly reduce these costs (National Center for Academic Transformation, n.d.; Schlager, Farooq, Fusco, Schank, & Dwyer, 2009) and to reach more people more efficiently (Ludlow & Brannan, 2010). The use of technology to provide professional development is especially critical in rural areas, where attrition among personnel is high and there are limited training opportunities and resources (Johnson, Humphrey, & Allred, 2009; Menlove & Lignugaris/Kraft, 2004). As professional development providers attempt to provide ongoing technical assistance instead of one-time training sessions and to reach personnel in rural areas, it will be critical for these professional development providers to capitalize on the capabilities offered by these newer technologies (Williams, Martin, & Hess, 2010). For this reason, this proposed priority requires SPDG projects to use technology to more efficiently and effectively provide ongoing

professional development to personnel, including those in rural areas.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to assist SEAs in reforming and improving their systems for personnel (as that term is defined in section 651(b) of the IDEA) preparation and professional development of individuals providing early intervention, educational, and transition services in order to improve results for children with disabilities.

In order to meet this priority an applicant must demonstrate in the SPDG State Plan it submits as part of its application under section 653(a)(2) of the IDEA that its proposed project will--

(1) Use evidence-based (as defined in this notice) professional development practices that will increase implementation of evidence-based practices and result in improved outcomes for children with disabilities;

(2) Provide ongoing assistance to personnel receiving SPDG-supported professional development that supports the implementation of evidence-based practices with fidelity (as defined in this notice); and

(3) Use technology to more efficiently and effectively provide ongoing professional development to personnel, including to personnel in rural areas and to other populations, such as personnel in urban or high-need LEAs (as defined in this notice).

Proposed Priority 2--Targeting Teachers' Professional Development Needs Based on Student Growth

Background:

Effective teaching is a cornerstone of education reform (Whitehurst, 2002). To evaluate teacher effectiveness, an increasing number of SEAs and LEAs have begun examining data on growth in student achievement (Hanushek & Rivkin, 2010; Taylor & Tyler, 2011). In addition, these data are increasingly being used to identify professional development needs (Torgeson, Meadows, & Howard, 2011). Using student outcome data to identify the professional development needs of teachers can be a useful first step in helping teachers meet the needs of their students. This is important because many schools continue to struggle to meet their academic goals for children with disabilities, with little improvement nationally in the performance of students with disabilities on statewide assessments (Altman, Thurlow, & Vang, 2010). For this reason, we propose a priority for projects that

are designed to provide teachers professional development that is targeted to meet their specific needs, as those needs are identified by teacher evaluation systems that take into account student growth (as defined in this notice) in determining performance levels. In FY 2012, we intend to use this proposed priority as a competitive preference priority.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for projects that are designed to provide teachers professional development that is targeted to meet their specific needs, as those needs are identified by teacher evaluation systems that take into account student growth (as defined in this notice) in determining performance levels.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the competitive preference priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED DEFINITIONS:

Background:

We propose the following definitions of the terms evidence-based, fidelity, high-need local educational agency (LEA), student achievement, and student growth for use in the SPDG program. We propose these definitions to ensure that applicants have a clear understanding of how we are using these terms in the proposed priorities. To the extent appropriate, we propose to use definitions that we have used in other similar priorities. For example, the definitions of evidence-based, student achievement, and

student growth are based on the definitions of terms defined in the Department's notice of final supplemental priorities and definitions for discretionary grant programs, published in the Federal Register on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637). In addition, we propose to adopt the definition of high-need LEA that is used in the Elementary and Secondary Education Act of 1965, as amended (ESEA). Finally, we have based the proposed definition of the term fidelity on a definition that is widely accepted in the field (Gresham, MacMillan, Boebe-Frankenberger, & Bocian, 2000).

Proposed Definitions: The Assistant Secretary proposes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Evidence-based refers to practices for which there is strong evidence or moderate evidence of effectiveness.

Fidelity means the delivery of instruction in the way in which it was designed to be delivered.

High-need LEA means, in accordance section 2102(3) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), an LEA--

(a) That serves not fewer than 10,000 children from families with incomes below the poverty line (as that term

is defined in section 9101(33) of the ESEA), or for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line; and

(b) For which there is (1) a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach, or (2) a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

Student achievement means--

(a) For tested grades and subjects: (1) a student's score on the State's assessments under the ESEA; and, as appropriate, (2) other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across schools.

(b) For non-tested grades and subjects: alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time.

Final Priorities and Definitions

We will announce the final priorities and definitions in a notice in the Federal Register. We will determine the final priorities and definitions after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563:

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment,

public health or safety, or State, local or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs

(recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account-- among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may

include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are taking this regulatory action only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

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.

Intergovernmental Review: This program is 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 provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 10, 2012

Alexa Posny,
Assistant Secretary
for Special Education and
Rehabilitative Services.

[FR Doc. 2012-8974 Filed 04/12/2012 at 8:45 am; Publication Date: 04/13/2012]