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DEPARTMENT OF EDUCATION

34 CFR Chapter II

RIN 1810-AB25

[Docket ID: ED-2015-OESE-0129]

Final priorities, Requirements, Definitions, and Selection Criteria--Striving Readers Comprehensive Literacy (SRCL) Program

[CFDA Number: 84.371C.]

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Announcement of final priorities, requirements, definitions, and selection criteria.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) announces priorities, requirements, definitions, and selection criteria under the SRCL program. These priorities, requirements, definitions, and selection criteria replace the priorities, requirements, definitions, and selection criteria in the SRCL notice inviting applications for new awards for Fiscal Year (FY) 2011, published in the Federal Register on March 10, 2011. The Assistant Secretary may use these priorities, requirements, definitions, and selection criteria for competitions in FY 2017 and

subsequent years as the Department ensures an orderly transition to future programs under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). We take this action to address an area of national need by providing competitive grant awards to State educational agencies (SEAs) to advance literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, including children living in poverty, English learners, and children with disabilities.

DATES: These priorities, requirements, definitions, and selection criteria are effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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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:

Executive Summary:

Purpose of this Regulatory Action: The Department will make competitive grant awards under the SRCL program

to eligible SEAs for the purpose of advancing literacy skills, including pre-literacy skills, reading, and writing, for children from birth through grade 12, with an emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities.

Summary of the Major Provisions of This Regulatory Action: In this document, we announce the final priorities, requirements, definitions, and selection criteria that we may require eligible SEAs to address in order to receive funds under the SRCL program.

In this document, we announce three priorities. The first priority focuses on how SEAs will ensure that (a) the comprehensive literacy instruction programs funded under this grant are supported by moderate evidence or strong evidence and (b) local literacy plans are aligned with the State comprehensive literacy plan. Under the second priority, SEAs must describe a high-quality plan to ensure that local projects serve the greatest numbers or percentages of disadvantaged children. The third priority encourages SEAs to prioritize local literacy plans that align pre-literacy strategies for children aged birth through five with pre-literacy and literacy strategies for students from kindergarten through grade five.

We also announce requirements to ensure that State literacy teams assess the State comprehensive literacy plans on a regular basis and that these plans include continuous improvement activities. In addition, we announce 13 definitions that clarify terms used in the SRCL program.

Finally, we announce selection criteria intended to help identify high-quality applications. These selection criteria will assist the Department in determining the extent to which eligible SEAs submitting applications under the SRCL program will: (1) provide support and technical assistance, based on an assessment of local needs, to SRCL subgrantees to ensure improvement in the literacy and pre-literacy achievement of children from birth to grade 12 and ensure effectiveness in addressing the needs of disadvantaged children; (2) establish an independent peer review process for awarding subgrants to prioritize awards to eligible subgrantees that propose a high-quality comprehensive literacy instruction program and are supported by moderate or strong evidence; (3) monitor subgrantees' implementation of interventions and practices to ensure fidelity to the local plan, as well as alignment between the SEA's State comprehensive literacy plan and subgrantees' local literacy plans; and (4) award subgrants

of sufficient size that target the greatest numbers or percentages of disadvantaged children, to fully and effectively implement the local literacy plan.

Costs and Benefits: We have determined that these final priorities, requirements, definitions, and selection criteria will not impose significant costs on eligible SEAs. Program participation is voluntary, and the costs imposed on applicants by these final priorities, requirements, definitions, and selection criteria will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program will outweigh any costs incurred by applicants, and the costs of actually carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants, including small entities.

Purpose of Program: The purpose of the SRCL program is to advance literacy skills, including pre-literacy skills, reading, and writing, for all children from birth through grade 12, with a special emphasis on disadvantaged children, including children living in poverty, English learners, and children with disabilities. Through this program, the Department awards competitive grants to SEAs

to support subgrants to local educational agencies (LEAs) or other eligible subgrantees, including early learning providers.

Program Authority: Section 1502 of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB), and Title III of Division H of the Consolidated Appropriations Act, 2016 (Pub. L. No. 114-113).¹

Applicable Program Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

¹ Title III of division H of the Consolidated Appropriations Act, 2016 (Pub L. 114-113) appropriated funds for the SRCL program under section 1502 of the ESEA, as amended by the NCLB. As such, the upcoming SRCL competition will be conducted under that authority. The Department notes that the ESEA, as amended in December 2015 by the ESSA, authorizes the Comprehensive Literacy State Development (CLSD) program, a program that is substantively similar to SRCL. See sections 2221-2224 of the ESEA, as amended by the ESSA. To provide for the orderly transition to future programs under the ESSA, the priorities, requirements, definitions, and selection criteria that apply to the SRCL program through this notice align, to the extent possible, with certain new statutory requirements that will apply to the CLSD program.

We published a notice of proposed priorities, requirements, definitions, and selection criteria (NPP) for this program in the Federal Register on June 20, 2016 (81 FR 39875). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

There are differences between the NPP and this notice of final priorities, requirements, definitions, and selection criteria (NFP) as discussed under Analysis of Comments and Changes.

Public Comment: In response to our invitation in the NPP, eight parties submitted comments on the proposed priorities, requirements, definitions, and selection criteria.

We group major issues according to subject matter. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, definitions, and selection criteria since publication of the NPP follows.

Proposed Priority 2--Serving Disadvantaged Children

Comments: One commenter suggested that, in the context of children from birth to five years old, a distinction should be made between infants and toddlers with developmental delays, particularly, and children with disabilities, generally. Another commenter advised that a developmental delay is not the same as a disability as it relates to infants and toddlers and language and early learning proficiency.

Discussion: We agree with the commenters that there is a difference between a developmental delay and a disability as the terms relate to the language and literacy advancement of children from birth to five years old. Under the Individuals with Disabilities Education Improvement Act of 2004, an infant or toddler with a disability is defined as an individual under three years of age who needs early intervention services because the individual is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development. Since developmental delays distinctly affect infants and toddlers, they should be considered separately from issues pertaining to children with disabilities,

generally, when designing a comprehensive literacy instruction program.

Changes: We have revised the definition of disadvantaged child to explicitly include infants and toddlers with developmental delays and to differentiate between an infant and toddler with a developmental delay and a child with a disability.

Comments: None.

Discussion: Upon further review, we determined that, when referencing disadvantaged children in this priority, the population of children living in poverty should be specifically included, as are the populations of English learners and children with disabilities. These populations are particularly vulnerable to challenges in attaining the literacy skills that are needed to meet a State's challenging academic standards and for future success in college and career endeavors.

Changes: We have revised the priority to specifically include children living in poverty as a group of disadvantaged children that applicants must serve in order to meet this priority. Additionally, we have specifically included this group of disadvantaged children in the definitions of disadvantaged child and State literacy team.

Proposed Priority 3--Alignment within a Birth through Fifth
Grade Continuum

Comments: Several commenters raised concerns that the priority did not sufficiently address the unique learning needs of the youngest children--infants and toddlers--to be served through the SRCL program, and they noted that the process of language and learning experiences are different for younger children than older children. A few commenters suggested that we clarify in this priority that the continuum of learning begins with early care and learning approaches and builds upon skills that lead to improving literacy for preschool to elementary school, and beyond.

Discussion: The Department agrees that the building blocks of literacy must be introduced as early as birth and emphasized throughout preschool and elementary education programs. We agree that the gains children make in early care and learning programs must be sustained and built upon throughout the preschool and elementary levels. Building a preschool through fifth grade system will help to sustain student success, while allowing for differentiation of interventions based on age. Further, we agree that the priority should be clarified to emphasize that grantees must appropriately differentiate their literacy

interventions according to the age of children to be served.

Changes: We have revised this priority to require that the high-quality plans to align early language and literacy projects with programs for children in kindergarten through grade five must include a progression of approaches appropriate for each age group.

Requirements

Comments: Several commenters raised concerns about the State comprehensive literacy plan requirement.

Specifically, one commenter suggested that we more explicitly require professional development for early childhood educators. A few commenters stated that SEAs should be allowed to update and refine their existing State comprehensive literacy plans rather than be required to develop new ones. Additionally, one commenter requested that we require a comprehensive needs assessment at the State level.

Discussion: We recognize that professional development for early childhood educators is important and, as stated in a response to commenters under Definitions, we remind commenters that the definition of professional development includes strategies that encompass early childhood education. We believe that no changes to the requirement

are needed to ensure that SEAs meaningfully consider the professional development needs of early childhood education personnel.

As to the comment that States be allowed to update existing literacy plans, we recognize that most SEAs will have already developed and implemented comprehensive literacy plans. Indeed, the FY 2010 Striving Readers formula grant program required SEAs to establish or support a State Literacy Team with expertise in literacy development and education for children from birth through grade 12 to assist the State in developing a comprehensive literacy plan. While nothing in the proposed requirement would have precluded an eligible SEA from modifying its existing comprehensive literacy plan, we believe it is helpful to clarify that SEAs may revise an existing plan in order to meet the requirement. Similarly, we recognize the need for State comprehensive literacy plans to be informed by a recent comprehensive needs assessment. We believe that a comprehensive needs assessment conducted within the past five years would be considered sufficiently recent.

Changes: We have revised this requirement to clarify that SEAs may update their existing State comprehensive literacy plans to meet the State comprehensive literacy plan requirement. Additionally, we have added to the

requirement the need for the State comprehensive literacy plan to be informed by a recent (conducted in the past five years) comprehensive needs assessment.

Comments: A few commenters raised concerns about LEAs' capacity to implement the requirement for local literacy plans. One commenter suggested that we provide example tools or surveys to assist grantees and subgrantees in meeting the needs assessment responsibility outlined in this requirement.

Discussion: We believe that strong local literacy plans are critical to the success of projects funded under SRCL. In particular, we believe that local literacy plans that are informed by a comprehensive needs assessment will support more effective strategies for areas of greatest concern. We recognize that some LEAs may not have the expertise necessary to develop strong needs assessments and agree that examples of needs assessment tools and surveys would be helpful. Accordingly, we intend to offer online resources and other technical assistance to FY 2017 SRCL applicants, as well as grantees and subgrantees.

Changes: None.

Comments: A few commenters requested that the Department coordinate with the Institute of Education Sciences (IES) to conduct a national evaluation of the SRCL program;

require that grantees participate in the national evaluation; and track a set of common performance measures across grantees.

Discussion: We agree with the commenters that it is important to evaluate the SRCL program to determine its effectiveness. We believe that in order to determine whether the implementation of the SRCL program contributes to positive outcomes at the local, State, and national levels, a national evaluation of the SRCL program that includes a set of common performance measures should be conducted. We further note that section 2225 of the ESEA, as amended by the ESSA, calls for the Director of IES to conduct a national evaluation of the successor to the SRCL program, the Comprehensive Literacy State Development (CLSD) program, newly authorized in title II, part B of the ESEA, as amended by the ESSA.

Changes: We have added a requirement that requires grantees to assure they will only fund subgrantees that provide a written assurance to cooperate with a national evaluation of the SRCL program.

Definitions

Comments: Several commenters requested that we revise the definition of comprehensive literacy instruction. One commenter recommended that we expand the definition to

reflect current research that includes other components essential to literacy, including print concepts, handwriting and word processing, knowledge required to comprehend text, literacy motivation, and age-appropriate, diverse, high-quality print materials that reflect the reading and development levels and interests of children. A few commenters suggested that the definition include terminology that is consistent with the needs of children ages birth to five, and one commenter requested that the definition include a reference to dual language learners to support language development of early learners. Additionally, one commenter suggested providing examples of professional development opportunities that align with the definition to support meaningful, high-quality implementation of comprehensive literacy instruction.

Discussion: The definition of comprehensive literacy instruction is taken from the ESEA, as amended by the ESSA. Although the SRCL program is authorized under section 1502 of the ESEA, as amended by the NCLB, and, therefore, is not statutorily bound to this definition, we recognize the value in aligning elements of this NFP with the CLSD grant program. We believe that, when read in its entirety, the definition addresses overall needs of children from birth to grade 12, including dual language learners, and supports

the use of research-based, high-quality, and age-appropriate literacy instruction. Further, in order to allow grantees and subgrantees flexibility in determining the most appropriate literacy instruction for their particular projects, we decline to be more prescriptive on the requirements for the components of comprehensive literacy instruction in this definition or the implementation of professional development activities.

Changes: None.

Comments: Two commenters suggested that the definition of high-quality plan does not provide sufficient information to assist grantees in identifying appropriate performance measures that are differentiated by grade span. Both commenters requested that we provide examples of the types of performance measures that could be included as part of a high-quality plan.

Discussion: We believe that the appropriate performance measures for a particular project will depend on the exact nature of the proposed project. In order to allow grantees and subgrantees flexibility in determining the most appropriate performance measures for their particular projects, we decline to be more prescriptive on the requirements for performance measures in this notice. However, we note that any evaluation of the program will

require a common set of performance data collected across grantees, and as such the Department has established four Government Performance and Results Act of 1993 (GPRA) performance measures for fiscal year 2017 for the SRCL program. Grantees will be required to report on those GPRA measures, which can be found in the notice inviting applications (NIA) for the SRCL competition, published elsewhere in this issue of the Federal Register.

Changes: None.

Comments: One commenter suggested that we revise the definition of professional development to include specific activities targeted to early childhood education for children birth to five years old.

Discussion: The definition of professional development is taken from the ESEA, as amended by the ESSA. Although this program is authorized under section 1502 of the ESEA, as amended by NCLB, and, therefore, is not statutorily bound to this definition, we recognize the value in aligning elements of this NFP with the successor to the SRCL program, the CLSD grant program. We further believe the definition does not preclude an eligible SEA from conducting specific professional development activities for early childhood educators of children from birth to five years old.

Changes: None.

Comments: A few commenters recommended expanding the definition of State literacy team to include, as members, individuals with other types of experience. Specifically, commenters requested adding specialized instructional support personnel; representatives from institutions of higher education; and representatives of the business community to the definition.

Discussion: We agree that State literacy teams should consist of individuals with diverse professional experiences. While the proposed definition would not have precluded an eligible SEA from adding members to its State literacy team with additional expertise outside those areas described in the definition, we agree that States should have the flexibility to design their own teams as they see fit.

Changes: We have modified the definition to further clarify that States have flexibility in determining if additional team members are needed.

Comments: Several commenters recommended that the SRCL program use the definition of evidence-based in section 8101(21)(A) of the ESEA, as amended by the ESSA, instead of the definitions of moderate evidence of effectiveness and strong evidence of effectiveness in 34 CFR 77.1. In

particular, several commenters recommended that Priority 1, the requirement for local literacy plans, and the selection criteria on State-level activities, SEA plan for subgrants, and SEA monitoring plans incorporate the definition of evidence-based in the ESEA, as amended by the ESSA.

Additionally, one commenter emphasized the need to fund more programs that utilize more rigorous and independent evaluations.

Discussion: We appreciate the commenters' support for evidence-based literacy interventions and, upon reflection and consideration of these comments, agree that the SRCL program should align its definitions related to evidence with definitions in the ESEA, as amended by the ESSA.

Although this program is authorized under section 1502 of the ESEA, as amended by NCLB, and, therefore, is not statutorily bound to this definition, we recognize the value in aligning elements of this NFP with the ESSA definition to ensure an orderly transition to future programs under the ESEA, as amended by the ESSA.

At the time of the publication of the NPP, only a few months following the enactment of the ESSA, we did not believe that the Department would be ready to begin aligning programs with the ESSA definition of evidence-based, and we believe it is important for the Department's

competitive programs to use a consistent approach to evidence-based grant-making. However, since the publication of the NPP, the Department issued non-regulatory guidance interpreting the ESSA definition,² and at this point we believe we are ready to align SRCL with the ESSA definition of evidence-based.

At the same time, however, we want the SRCL program to maintain a focus on literacy activities supported by the highest levels of evidence. In our review of existing research on literacy interventions for children from early childhood to grade 12, we determined that sufficient evidence exists at the moderate and strong levels to warrant an approach for this program that incorporates only the two highest levels of the ESSA definition of evidence-based.

Changes: We have added definitions for the terms evidence-based, strong evidence, and moderate evidence that match the standards in section 8101(21)(A)(i)(I) and (II) of the ESEA, as amended by the ESSA. We have made conforming changes to Priority 1, the requirement for local literacy plans, and the selection criteria on State-level activities, SEA plan for subgrants, and SEA monitoring

² See: <https://www2.ed.gov/policy/elsec/leg/essa/guidanceuseinvestment.pdf>.

plans by removing references to the definitions of moderate evidence of effectiveness and strong evidence of effectiveness in 34 CFR 77.1 and substituting the terms strong evidence and moderate evidence.

Comments: None.

Discussion: Upon further review, we noted that a definition of English learner is not included in the statutory language authorizing the SRCL program, and determined that, given the focus of the program, we should provide a definition of this term in the NFP. To that end, we have included the definition of English learner that is consistent with how that term is defined in section 8101 of the ESEA, as amended by the ESSA.

Changes: We have added a definition of English learner.

Selection Criteria

Comments: One commenter recommended an additional selection criterion that assesses the extent to which the SEA applicant differentiates between interventions and practices that are appropriate for children birth through age five and children from kindergarten to grade 5.

Discussion: We agree that early childhood education is important in laying the foundation for all learning, behavior, and health across a child's lifespan. SRCL requires that grantees ensure that at least 15 percent of

the subgranted funds are used to improve early literacy development of children from birth through kindergarten entry, and envisions high-quality professional development to increase the knowledge of early childhood educators in supporting early language and literacy development. We agree with the commenter that it is important to recognize the nuances of developing early literacy skills of infants and toddlers, especially as they are different from the literacy skills of older children. We believe it will be important for the SEA's monitoring plan to ensure that LEAs' interventions and practices are differentiated and appropriate for children from birth through age five and children in kindergarten through grade 5.

Changes: We have revised the SEA monitoring plan selection criterion to include a focus on differentiated local strategies that are appropriate for children from birth through age five and children in kindergarten through grade 5.

Comments: None.

Discussion: In the NPP, the selection criterion relating to the SEA monitoring plan addressed the extent to which proposed interventions and practices are implemented with fidelity and aligned with the SEA's State comprehensive literacy plan and local needs. We believe that the term

local literacy plan should be used instead of local needs to reflect the language used in the requirements established in this document.

Changes: We have revised the SEA monitoring plan selection criterion to include the term local literacy plan.

FINAL PRIORITIES:

Priority 1--Interventions and Practices Supported by Moderate or Strong Evidence.

Under this priority, a State educational agency (SEA) must ensure that evidence plays a central role in the SRCL subgrants. Specifically, in its high-quality plan, an SEA must assure that (1) it will use an independent peer review process to prioritize awards to eligible subgrantees that propose high-quality comprehensive literacy instruction programs that are supported by moderate evidence or strong evidence, where evidence is applicable and available, and (2) the comprehensive literacy instruction program proposed by eligible subgrantees will align with the State's comprehensive literacy plan as well as local needs.

Priority 2--Serving Disadvantaged Children.

Under this priority, an SEA must describe in its application a high-quality plan to award subgrants that will serve the greatest numbers or percentages of

disadvantaged children, including children living in poverty, English learners, and children with disabilities.

Priority 3--Alignment within a Birth through Fifth Grade Continuum.

Under this priority, an SEA must describe in its application a high-quality plan to align, through a progression of approaches appropriate for each age group, early language and literacy projects supported by this grant that serve children from birth to age five with programs and systems that serve students in kindergarten through grade five to improve school readiness and transitions for children across this continuum.

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 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)).

FINAL REQUIREMENTS:

The Assistant Secretary establishes the following requirements for the purposes of the SRCL program. We may apply one or more of these requirements in any year in which this program is in effect.

State Comprehensive Literacy Plan: To be considered for an award under this program, an SEA must submit a new or revised State comprehensive literacy plan that is informed by a recent (conducted in the past five years) and comprehensive needs assessment developed with the assistance of its State literacy team. Additionally, the plan must be reviewed by the State literacy team and updated annually if an SEA receives an award under this program.

Local Literacy Plan: Grantees must ensure that they will only fund subgrantees that submit a local literacy plan that: (1) is informed by a comprehensive needs assessment and that is aligned with the State comprehensive literacy plan; (2) provides for professional development; (3) includes interventions and practices that are supported by moderate evidence or strong evidence, where evidence is applicable and available; and (4) includes a plan to track children's outcomes consistent with all applicable privacy requirements.

Prioritization of Subgrants: In selecting among eligible subgrantees, an SEA must give priority to eligible subgrantees serving greater numbers or percentages of disadvantaged children.

Continuous Program Improvement: Grantees must use data, including the results of monitoring and evaluations and other administrative data, to inform the program's continuous improvement and decisionmaking, to improve program participant outcomes, and to ensure that disadvantaged children are served. Additionally, grantees must ensure that subgrantees, educators, families, and other key stakeholders receive the results of the evaluations conducted on the effectiveness of the program

in a timely fashion, consistent with all applicable Federal, State, and other privacy requirements.

Supplement not Supplant: Grantees must use funds under this program to supplement, and not supplant, any non-Federal funds that would be used to advance literacy skills for children from birth through grade 12.

Cooperation with National Evaluation: Applicants must assure they will only fund subgrantees that provide a written assurance to cooperate with a national evaluation of the SRCL program conducted by the Department. This may include adhering to the results of a random assignment process (e.g., lottery) to select schools or early learning providers that will receive SRCL funds as well as agreeing to implement the literacy interventions proposed to be funded under SRCL only in schools or early learning providers that will receive SRCL funds.

FINAL DEFINITIONS:

The Assistant Secretary establishes the following definitions for the purposes of the SRCL program. We may apply one or more of these definitions in any year in which this program is in effect.

Comprehensive literacy instruction means instruction that--

(a) Includes developmentally appropriate, contextually explicit, and systematic instruction, and frequent practice, in reading and writing across content areas;

(b) Includes age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension;

(c) Includes age-appropriate, explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff;

(d) Makes available and uses diverse, high-quality print materials that reflect the reading and development levels, and interests, of children;

(e) Uses differentiated instructional approaches, including individual and small group instruction and discussion;

(f) Provides opportunities for children to use language with peers and adults in order to develop language skills, including developing vocabulary;

(g) Includes frequent practice of reading and writing strategies;

(h) Uses age-appropriate, valid, and reliable screening assessments, diagnostic assessments, formative assessment processes, and summative assessments to identify a child's learning needs, to inform instruction, and to monitor the child's progress and the effects of instruction;

(i) Uses strategies to enhance children's motivation to read and write and children's engagement in self-directed learning;

(j) Incorporates the principles of universal design for learning;

(k) Depends on teachers' collaboration in planning, instruction, and assessing a child's progress and on continuous professional learning; and

(l) Links literacy instruction to the State's challenging academic standards, including standards relating to the ability to navigate, understand, and write about complex subject matters in print and digital formats.

Disadvantaged child means a child from birth to grade 12 who is at risk of educational failure or otherwise in need of special assistance and support, including a child living in poverty, a child with a disability, or a child who is an English learner. This term also includes infants and toddlers with developmental delays or a child who is

far below grade level, who has left school before receiving a regular high school diploma, who is at risk of not graduating with a diploma on time, who is homeless, who is in foster care, or who has been incarcerated.

Eligible subgrantee means one or more LEAs or, in the case of early literacy, one or more LEAs or nonprofit providers of early childhood education, with a demonstrated record of effectiveness in improving language and early literacy development of children from birth through age five and in providing professional development in language and early literacy development.

English learner means an individual--

(a) Who is aged 3 through 21;

(b) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(c) (i) Who was not born in the United States or whose native language is a language other than English;

(ii) (I) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an

environment where a language other than English is dominant; and

(d) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual--

(i) The ability to meet the challenging State academic standards;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

Evidence-based, when used with respect to a State, local educational agency, or school activity, means and activity, strategy, or intervention that--

(a) Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on--

(i) Strong evidence from at least one well designed and well-implemented experimental study;

(ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or

(iii) promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(b) (i) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(ii) includes ongoing efforts to examine the effects of such activity, strategy or intervention.

High-quality plan means any plan developed by the SEA that is feasible and has a high probability of successful implementation and, at a minimum, includes--

(a) The key goals of the plan;

(b) The key activities to be undertaken and the rationale for how the activities support the key goals;

(c) A realistic timeline, including key milestones, for implementing each key activity;

(d) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(e) A strong theory, including a rationale for the plan and a corresponding logic model as defined in 34 CFR 77.1;

(f) Performance measures at the State and local levels; and

(g) Appropriate financial resources to support successful implementation of the plan.

Independent peer review means a high-quality, transparent review process informed by outside individuals with expertise in literacy development and education for children from birth through grade 12.

Moderate evidence means a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented quasi-experimental study.

Professional development means activities that--

(a) Are an integral part of school and LEA strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the State's challenging academic standards;

(b) Are sustained (not stand-alone, one-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused; and

(c) May include activities that--

(1) Improve and increase teachers'--

(i) Knowledge of the academic subjects the teachers teach;

- (ii) Understanding of how students learn; or
 - (iii) Ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;
- (2) Are an integral part of broad schoolwide and districtwide educational improvement plans;
 - (3) Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;
 - (4) Improve classroom management skills;
 - (5) Support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;
 - (6) Advance teacher understanding of--
 - (i) Effective instructional strategies that are evidence-based; or
 - (ii) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;
 - (7) Are aligned with, and directly related to, academic goals of the school or LEA;

(8) Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian Tribes (as applicable), and administrators of schools to be served under this program;

(9) Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(10) To the extent appropriate, provide training for teachers, principals, and other school and community-based early childhood program leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(11) As a whole, are regularly evaluated for their impact on teacher effectiveness and student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(12) Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and

skills to provide instruction and academic support services to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(13) Provide instruction in the use of data and assessments to inform classroom practice;

(14) Provide instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(15) Involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965, as amended (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(16) Create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under part A of title I) to obtain the education necessary

for those paraprofessionals to become certified and licensed teachers;

(17) Provide follow-up training to teachers who have participated in activities described in this paragraph (c) that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; or

(18) Where practicable, provide for school staff and other early childhood education program providers to address jointly the transition to elementary school, including issues related to school readiness.

State comprehensive literacy plan means a plan that addresses the pre-literacy and literacy needs of children from birth through grade 12, with special emphasis on disadvantaged children. A State comprehensive literacy plan is informed by a recent (conducted in the past five years) comprehensive needs assessment; aligns policies, resources, and practices; contains clear instructional goals; sets high expectations for all children and subgroups of children; and provides for professional development for all teachers in effective literacy instruction.

State literacy team means a team comprised of individuals with expertise in literacy development and

education for children from birth through grade 12. The State literacy team must include individuals with expertise in the following areas:

(a) Implementing literacy development practices and instruction for children in the following age/grade levels: birth through age five, kindergarten through grade 5, grades 6 through 8, and grades 9 through 12;

(b) Managing and implementing literacy programs that are supported by strong evidence or moderate evidence;

(c) Evaluating comprehensive literacy instruction programs;

(d) Planning for and implementing effective literacy interventions and practices, particularly for disadvantaged children, children living in poverty, struggling readers, English learners, and children with disabilities;

(e) Implementing assessments in the areas of phonological awareness, word recognition, phonics, vocabulary, comprehension, fluency, and writing; and

(f) Implementing professional development on literacy development and instruction.

A literacy team member may have expertise in more than one area. Team members may also include, but are not limited to: library/media specialists; parents; literacy coaches; instructors of adult education; representatives of

community-based organizations providing educational services to disadvantaged children and families; family literacy service providers; representatives from local or State school boards; and representatives from related child services agencies.

Strong evidence means a statistically significant effect on improving student outcomes or other relevant outcomes based on at least one well-designed and well-implemented experimental study.

Universal design for learning, as defined under section 103 of the Higher Education Act of 1965, as amended, means a scientifically valid framework for guiding educational practice that--

(a) Provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and

(b) Reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.³

³English learner and limited English proficient have the same meaning.

FINAL SELECTION CRITERIA:

The Assistant Secretary establishes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. In the NIA, the application package, or both, we will announce the maximum possible points assigned to each criterion.

(a) State-level activities.

To determine the quality of the applicant's State-level activities, the Secretary considers--

(1) The extent to which the SEA will support and provide technical assistance to its SRCL program subgrantees to ensure they implement a high-quality comprehensive literacy instruction program that will improve student achievement, including technical assistance on identifying and implementing with fidelity interventions and practices that are supported by moderate evidence or strong evidence and align with local needs; and

(2) The extent to which the SEA will collect data and other information to inform the continuous improvement, and evaluate the effectiveness and impact, of local projects.

(b) SEA plan for subgrants.

To determine the quality of the applicant's SEA plan for subgrants, the Secretary considers the extent to which

the SEA has a high-quality plan to use an independent peer review process to award subgrants that propose a high-quality comprehensive literacy instruction program, including--

(1) A plan to prioritize projects that will use interventions and practices that are supported by moderate evidence or strong evidence; and

(2) A process to determine--

(i) The alignment of the local project to the State's comprehensive literacy plan and the local literacy plan;

(ii) The relevance of cited studies to the project proposed and identified needs;

(iii) The extent to which the intervention or practice is supported by moderate evidence or strong evidence; and

(iv) The extent to which the interventions and practices are differentiated and are appropriate for children from birth through age five and children in kindergarten through grade 5.

(c) SEA monitoring plan.

To determine the quality of the applicant's SEA monitoring plan, the Secretary considers the extent to which the SEA describes a high-quality plan for monitoring local projects, including how it will ensure that--

(1) The interventions and practices that are part of the comprehensive literacy instruction program are aligned with the SEA's State comprehensive literacy plan;

(2) The interventions and practices that subgrantees implement are supported by moderate evidence or strong evidence, to the extent appropriate and available;

(3) The interventions and practices are differentiated and are appropriate for children from birth through age five and children in kindergarten through grade 5; and

(4) The interventions and practices are implemented with fidelity and aligned with the SEA's State comprehensive literacy plan and the local literacy plan.

(d) Alignment of resources.

To determine the quality of the applicant's alignment of resources, the Secretary considers the extent to which the SEA will: (1) target subgrants supporting projects that will improve instruction for the greatest numbers or percentages of disadvantaged children; and (2) award subgrants of sufficient size to fully and effectively implement the local plan while also ensuring that at least-

(a) 15 percent of the subgranted funds serve children from birth through age five;

(b) 40 percent of the subgranted funds serve students in kindergarten through grade five; and

(c) 40 percent of the subgranted funds serve students in middle and high school, through grade 12, including an equitable distribution of funds between middle and high schools.

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 these priorities, requirements, definitions and selection criteria, we invite applications through a notice in the Federal Register.

Executive Orders 12866, 13563, and 13771

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 final regulatory action will have an annual effect on the economy of more than \$100 million because the amount of government transfers through the SRCL program exceeds that amount. Therefore, this final regulatory action is "economically significant" and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action and have determined that the benefits justify the costs.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866, it must identify two deregulatory actions. For FY 2017, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Although this regulatory action is an economically significant regulatory action, the requirements of Executive Order 13771 do not apply because this regulatory action is a "transfer rule" not covered by the Executive order.

We have also reviewed this final 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 upon 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 issuing these final priorities, requirements,

definitions, and selection criteria only on a reasoned determination that their benefits justify their 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.

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

In this regulatory impact analysis, we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

Need for Regulatory Action

These final priorities, requirements, definitions, and selection criteria are needed to implement the SRCL program award process in the manner that the Department believes will best enable the program to achieve its objectives of implementing effective literacy and pre-literacy interventions and practices, at the local level, for disadvantaged children.

Potential Costs and Benefits

The Department believes that the final priorities, requirements, definitions, and selection criteria will not impose significant costs on SEAs. Program participation is voluntary, and the costs imposed on applicants by the final priorities, requirements, definitions, and selection criteria are limited to paperwork burden related to preparing an application. The potential benefits of implementing the program using the final priorities, requirements, definitions, and selection criteria are designed to outweigh any costs incurred by applicants, and the costs of actually carrying out activities associated with the application may be paid for with program funds. For these reasons, the Department has determined that the costs of implementation will not be an undue burden for eligible applicants, including small entities.

Accounting Statement

As required by OMB Circular A-4 (available at www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of

this regulatory action. Expenditures are classified as transfers from the Federal Government to SEAs.

Accounting Statement Classification of Estimated Expenditures

Category	Transfers
Annualized Monetized Transfers.	\$357.2M.
From Whom To Whom?	From Federal Government to SEAs.

The SRCL program will provide approximately \$357,200,000 in competitive grants to eligible SEAs.

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 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: May 11, 2017.

Jason Botel,
Acting Assistant Secretary for
Elementary and Secondary
Education.

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