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DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2020-OESE-0025]

Proposed Priorities, Requirements, Definition, and Selection Criteria--Education Innovation and Research--Teacher-Directed Professional Learning Experiences

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

ACTION: Proposed priorities, requirements, definition, and selection criteria.

SUMMARY: The Assistant Secretary for the Office of Elementary and Secondary Education proposes priorities, requirements, definition, and selection criteria under the Education Innovation and Research (EIR) program, Catalog of Federal Domestic Assistance (CFDA) numbers 84.411A/B/C.

The Assistant Secretary may use these priorities, requirements, definition, and selection criteria for competitions in fiscal year (FY) 2020 and later years. The Department proposes these priorities, requirements, definition, and selection criteria to support competitions under the EIR program for the purpose of developing, implementing, and evaluating teacher-directed professional

learning projects designed to enhance instructional practice and improve achievement and attainment for high-need students. The Department believes that teacher-directed professional development provided through such projects may be more effective in improving instructional practice and student outcomes than the one-size-fits-all professional development activities often funded by school systems in response to districtwide improvement goals.

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

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the

docket, is available on the site under "How to use Regulations.gov" in the Help section.

- Postal Mail, Commercial Delivery, or Hand Delivery:

If you mail or deliver your comments about the proposed priorities, requirements, definition, and selection criteria, address them to Ashley Brizzo, U.S. Department of Education, 400 Maryland Avenue, SW, room 3E325, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Ashley Brizzo. U.S. Department of Education, 400 Maryland Avenue, SW, room 3E325, Washington, DC 20202. Telephone: (202) 453-7122. Email: EIR@ed.gov.

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 notification. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, definition, and selection criteria, we urge you to clearly identify the specific proposed priority, requirement, definition, and selection criteria that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13371 and their overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, definition, and selection criteria. 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 the proposed priorities, requirements, definition, and selection criteria by accessing Regulations.gov. You may also inspect the comments in person at 400 Maryland Avenue, SW, room 3E325, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays. Please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Directed Questions: The Department seeks input on three specific areas of the proposed priorities, requirements, definition, and selection criteria. Regarding Proposed Priority 2, the Department seeks input from the public regarding whether partnership with a State educational agency (SEA) is necessary for successful systems-level change, such as to allow teacher-directed professional learning to be substituted for other mandatory professional development activities (e.g., professional development hours required as part of certification renewal); or to provide for a greater selection of professional learning providers and experiences. Likewise, the Department seeks input from the public regarding whether partnership with a local educational agency (LEA) is necessary for successful systems-change. Regarding Application Requirement (d)(1), the Department seeks input from the public regarding what, if any, challenges would applicants have in meeting the proposed requirement that teacher-directed professional learning must replace no less than a majority of the existing mandatory professional development for participating teachers; the Department also seeks input on anticipated technical assistant needs to be able to comply with this requirement.

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 the proposed priorities, requirements, definition, and selection criteria. 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 EIR program, established under section 4611 of the Elementary and Secondary Education Act, as amended (ESEA), provides funding to create, develop, implement, replicate, or take to scale entrepreneurial, evidence-based, field-initiated innovations to improve student achievement and attainment for high-need students; and rigorously evaluate such innovations. The EIR program is designed to generate and validate solutions to persistent education challenges and to support the expansion of those solutions to serve substantially larger numbers of students.

Program Authority: Section 4611 of the ESEA, 20 U.S.C. 7261.

PROPOSED PRIORITIES:

This notification contains three proposed priorities.

Proposed Priority 1--Teacher Directed Professional Learning.

Background: Although school-related factors such as curriculum, family engagement, and funding contribute to student academic performance, research suggests that the single most important school-based factor impacting students' achievement is their teacher (Hanushek, 2016; Stronge & Tucker, 2000). Creating every opportunity for teachers to engage deeply with high-quality professional development that is aligned to students' academic and other learning needs holds promise, therefore, in boosting student achievement.

Alignment of professional development to teacher needs is also critical. Research on adult learning (andragogy) posits that adults engage more deeply with learning opportunities when those opportunities are aligned to their interests (Trotter, 2006). Among teachers, those interests can vary between phases of their careers. For example, novice teachers may seek to improve classroom management skills, content knowledge, and pedagogy. In contrast, more experienced teachers may want to develop the advanced

skills necessary to take on new leadership roles or increase intensive intervention skills. Andragogy suggests that adult learning can be differentiated by the learner's need--that is, personalized--and indeed should be to maximize engagement in learning (Trotter, 2006).

Leveraging the power of personalization, and the deep engagement with learning it promotes, is critical if teacher professional development is to have an impact on educator practice. The Learning Policy Institute (2017) identifies a set of seven pillars for effective professional development. Among them are: (1) active learning, (2) collaboration, (3) coaching and support, (4) feedback and reflection, and (5) training of a sustained duration (Learning Policy Institute, 2017). A common thread among each of these practices is that they require teachers to invest meaningful effort and attention. No matter how well designed by the provider, the promise of these pillars to improve teacher practice is only realized when teachers engage fully with their content. Adult learning theory suggests personalization is one way to make it more likely that teachers will (Trotter, 2006).

Giving teachers the financial and other resources needed to personalize their professional development,

consistent with their needs and the needs of their students, has the potential to maximize benefits to both themselves and their students. Research indicates that having teachers create professional learning plans and giving them the freedom to select the activities that will support them in achieving the goals outlined in those plans could have positive effects on student achievement and attainment (Rabbitt, et al., 2015). Thus, it may be the case that a stipend program may magnify the efficacy of other personalization efforts by giving teachers access to options that otherwise may have been inaccessible due to other professional development requirements or that were cost prohibitive.

For these reasons, this proposed priority would support innovative projects that develop and test approaches providing teachers with professional learning stipends. With the autonomy to identify instructionally relevant professional learning, teachers can improve their craft to better support student achievement and attainment for high-need students.

Proposed Priority: Under this priority, an applicant must propose a project in which classroom teachers receive stipends to select professional learning alternatives that

are instructionally relevant and meet their individual needs related to instructional practices for high-need students. Additionally, teachers receiving stipends must be allowed the flexibility to replace no less than a majority of existing mandatory professional development with such teacher-directed learning, which must also be allowed to fully count toward any mandatory teacher professional development goals (e.g., professional development hours required as part of certification renewal, designated professional days mandated by districts).

Proposed Priority 2--State Educational Agency Partnership.

Background: Since teacher certification and training requirements are usually under the purview of an SEA, an SEA is critical to reshaping teacher professional learning opportunities to better serve teachers and the students they teach. Moreover, an SEA may have an opportunity to leverage greater selection of professional learning providers and experiences. One example might include an SEA offering a broad and comprehensive menu of pre-selected options for teachers to choose from that reflect additional options beyond what was available prior to the stipend

program. Another example might include an SEA, after implementation of the stipend program, incorporates a micro-credential program (that a teacher paid for with the stipend) is offered statewide to any teacher who wants it by the SEA informing teachers about a new route to fulfilling licensure requirements. Thus, an SEA may have an important role to play in supporting Proposed Priority 1. One way of supporting projects submitted under Proposed Priority 1 is through a partnership that includes an SEA.

Proposed Priority: Under this proposed priority, an application must demonstrate it has established a partnership between an eligible entity and an SEA (with either member of the partnership serving as the applicant) to support the proposed project.

Proposed Priority 3--Local Educational Agency Partnership.

Background: Given that teachers are employees of an LEA, an LEA is critical in coordinating teacher professional learning opportunities and managing the stipends teachers would receive. One example might include an LEA coordinating a new intra-district job shadowing program in which teachers could elect to use the stipend to pay for substitute coverage while shadowing. Another example might

include an LEA, after implementation of the stipend program, enters into a contract agreement with an entity that provided online coaching (paid for with the stipend and determined as successful) to allow the coaching option to be available to additional teachers throughout the district. Thus, an LEA may have an important role to play in supporting Proposed Priority 1. One way of supporting projects submitted under Proposed Priority 1 is through a partnership that includes an LEA.

Proposed Priority: Under this priority, an application must demonstrate it has established a partnership between an eligible entity and an LEA (with either member of the partnership serving as the applicant) to support the proposed project.

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 is as 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)).

PROPOSED REQUIREMENTS:

Background:

The proposed application requirements specify the necessary components to structure a program for teacher-directed professional learning in ways that prioritize teacher autonomy, high-need students, and high-quality professional learning.

Proposed Requirements:

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

effect.

An applicant must--

(a) Describe the pool of teachers eligible to request a stipend, including whether the applicant intends to prioritize eligibility based on content areas, strategic staffing initiatives, or other factors (and including a rationale for how such a determination addresses the needs of high-need students, as defined by the applicant);

(b) Describe the anticipated level of teacher participation, including--

(1) Current information on teacher satisfaction with existing professional learning; and

(2) Details on the planned outreach strategy to communicate the stipend opportunity to eligible teachers;

(c) Describe the proposed stipend structure, including--

(1) Estimated dollar amount per stipend, including associated expenses related to the professional learning (e.g., materials, transportation, etc.);

(2) A rationale for how the estimated dollar amount per stipend is sufficient to ensure access to professional learning activities that are, at minimum, comparable in quality, frequency, and duration to the professional

development other non-participating teachers will receive in a given year;

(3) Mechanisms to protect against fraud, waste, and abuse (e.g., monitoring systems, reviews for conflicts of interest); and

(4) Plans for how the applicant will select participants if there is more interest than available stipends (e.g., prioritizing by student need, prioritizing by teacher need, teachers teaching in a specific content area, human capital priorities, rubric-based review of requests, lottery);

(d) Describe details about the stipend system, including--

(1) How the applicant will update its policies to offer stipends to teachers such that no less than a majority of existing mandatory professional development is replaced by teacher-directed professional learning, including--

(i) The professional development days or activities from which participating teachers will be released in order to enable teacher-directed learning opportunities and to ensure that teacher-directed learning replaces no less than a majority of existing mandatory professional development;

or

(ii) Other methods in which participating teachers will be given the flexibility to participate in teacher-directed learning (e.g., by providing release from and substitute teacher coverage during regular instructional days) and how such methods will also ensure participating teachers are released from no less than a majority of existing professional development requirements;

(2) How the applicant will ensure that teacher-directed learning will fully substitute for mandatory professional development in meeting mandatory professional development goals or activities (e.g., professional development hours required as part of certification renewal, district- or contract-required professional development hours);

(3) How the applicant will provide information to teachers about professional learning options not previously available to teachers (e.g., list of innovative options, qualified providers, other resources);

(4) In addition to any list of professional learning options or providers identified by the applicant, mechanisms for teachers to independently select different high-quality, instructionally relevant professional

learning activities connected to the achievement and attainment of high-need students (based on teacher-identified needs such as self-assessment surveys, student assessment data, and professional growth plans); and

(e) Describe strategies for supporting teachers' implementation of changes in instructional practice as a result of their professional learning;

(f) Describe the process for managing the stipend system, including--

(1) For professional learning options that are among a list of options identified by the applicant: the processes for teachers to submit their requests to participate in those options in place of a previously required training and the processes for direct vendor payment using the stipend; and

(2) For different professional learning options selected by a teacher that may not be on the applicant's list of options: how the applicant will determine that the activity meets the definition of "professional learning" and is reasonable, and what processes the applicant will implement to ensure payment or timely reimbursement to teachers;

(g) Describe the proposed strategy to expand the use

of professional learning stipends (pending the results of the evaluation), including the following:

(1) Plans for continuously improving the stipend system in order to, over time, offer more teachers the opportunity to engage in teacher-directed professional learning and, for participating teachers, ensure a higher percentage of all mandatory professional learning is teacher-directed.

(2) Mechanisms for incorporating effective practices discovered through teacher-directed professional learning into the professional development curriculum for all teachers; and

(h) Provide an assurance that--

(1) At a minimum, the SEA or LEA involved in the project (as an applicant, partner, or implementation site) will maintain its current fiscal and administrative levels of effort in teacher professional development and allow the professional learning activities funded through the stipends to supplement the level of effort that is typically supported by the applicant;

(2) Project funds will only be used for instructionally relevant professional learning activities and not solely for obtaining advanced degrees, taking or

preparing for licensure exams, or for pursuing personal enrichment activities; and

(3) Projects will allow for a variety professional learning options for teachers and not limit use of the stipend to a restrictive set of choices (for example, professional learning provided only by the applicant or partners, specific pedagogical or philosophical viewpoints, or organizations with specific methodological stances). The applicant and any application partners will not be the primary financial beneficiaries of the professional learning stipends, and there is no conflict between the applicant, any application partner, and the purpose of providing teachers the autonomy to select their own professional learning opportunities.

PROPOSED DEFINITION:

Background:

Given the widely varied interpretation of professional learning, we propose a specific definition for this program to promote a shared understanding of the scope of professional learning that could be supported by this program. Specifically, professional "learning" in which teachers play an active role in their continued growth is intended to replace the status quo professional

"development" that is provided to teachers.

Proposed Definition:

The Assistant Secretary proposes the following definition for this program. We may apply this definition in any year in which this program is in effect.

Professional learning means instructionally relevant activities to improve and increase classroom teachers'--

(1) Content knowledge;

(2) Understanding of instructional strategies and intervention techniques for high-need students, including how best to analyze and use data to inform such strategies and techniques; and

(3) Classroom management skills to better support high-need students.

Professional learning must be job-embedded or classroom-focused and related to the achievement and attainment of high-need students. Professional learning may include innovative activities such as peer shadowing opportunities, virtual mentoring, online modules, professional learning communities, communities of practice, action research, micro-credentials, and coaching support.

PROPOSED SELECTION CRITERIA:

Background:

The proposed selection criteria are intended to provide the Department with the opportunity to allow peer reviewers to score applications in ways that reinforce the primary purpose of Proposed Priority 1.

Proposed Selection Criteria:

The Assistant Secretary proposes the following selection criteria for evaluating an application under this priority. We may apply one or more of these selection criteria in any year in which this priority is in effect.

(a) The sufficiency of the stipend amount to enable professional learning funded through the stipend to replace a majority of the existing mandatory professional development for participating teachers.

(b) The adequacy of plans to ensure that stipends are appropriately used for professional learning that is instructionally relevant, high-quality, and aligned to the identified needs of high-need students.

(c) The extent to which the proposed project will offer teachers flexibility and autonomy in meeting the majority of professional development requirements, including the extent of the choice teachers have in their professional learning.

(d) The likelihood that the procedures and resources

for teachers results in a simple process to select or request professional learning based on their professional learning needs and those identified needs of high-need students.

(e) The adequacy of the mechanisms for teachers to sustain positive changes in instructional practice.

(f) The likelihood that the professional learning supported through the stipends will result in improved student outcomes.

(g) The reasonableness of the payment structure that enables teachers to have an opportunity to apply for and use the stipend with minimal burden.

(h) The adequacy of procedures for leveraging the stipend program to inform continuous improvement and systematic changes to professional learning.

References:

Darling-Hammond, L., Hyler, M., and Gardner, M., with assistance from Espinoza, D. (2017). Effective teacher professional development. Learning Policy Institute.

Hanushek, E. A. (2016). What matters for student achievement. *Education Next*, 16(2), 18-26.

Rabbitt, B., Finegan, J., & Kellogg, N. (2019). Research-

Based, online learning for teachers: What the research literature tells us about the design of platforms and virtual experiences for working adult learners. The Learning Accelerator.

Stronge, J. H., & Tucker, P. D. (2000). Teacher evaluation and student achievement. National Education Association.

Trotter, Y. (2006). Adult learning theories: Impacting professional development programs. *Delta Kappa Gamma Bulletin*, 72(2), 8-13.

Final Priorities, Requirements, Definition, and Selection Criteria:

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

Note: This notification does not solicit

applications. In any year in which we choose to use one or more of these priorities, requirements, definition, 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, it must be determined 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)(4) of Executive Order 12866.

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, and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. However, Executive Order 13771 does not apply to "transfer rules" that cause only income transfers between taxpayers and program beneficiaries, such as those regarding discretionary grant programs. Because the proposed priorities, requirements, definition, and selection criteria would be used in connection with one or more discretionary grant programs, Executive Order 13771 does

not apply.

We have also reviewed this proposed 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 issuing these proposed priorities, requirements, definition, and selection criteria only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that this proposed regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action

would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Potential Costs and Benefits

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

Proposed Priority 1 would give the Department the opportunity to elevate the teaching profession by increasing the available funds for professional learning while requiring that applicants maintain current levels of investment. Additionally, by acknowledging teachers' ability to identify their professional learning needs and empowering them to select professional learning opportunities to meet those needs, we believe that this proposed priority could result in a number of changes including reducing personal costs that teachers incur when they must pay for professional learning that they want through their own means if their school, district, or State

will not. We also believe that teachers are more likely to have a committed investment in professional learning that they select, thereby enhancing the benefits of professional learning, including, but not limited to, increased knowledge and skills. Such changes have the potential to change instructional practices in ways that will improve student outcomes.

Proposed Priorities 2 and 3 may have the result of shifting at least some of the Department's grants among eligible entities by giving the Department the opportunity to prioritize partnerships that might be well suited to achieve the purposes of Proposed Priority 1. By prioritizing projects that are supported by an SEA or LEA-- entities that establish professional development requirements--the Department is increasing the likelihood that such teacher-driven approaches can be implemented more widely, should they be determined as more effective. Because this proposed priority would neither expand nor restrict the universe of eligible entities for any Department grant program, and since application submission and participation in our discretionary grant programs is voluntary, there are not costs associated with this proposed priority.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priorities, requirements, definition, and selection criteria easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed

regulations easier to understand?

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this proposed regulatory action would affect are public or private nonprofit agencies and organizations, including institutions of higher education, that may apply. We believe that the costs imposed on an applicant by the proposed priorities, requirements, definition, and selection criteria would be limited to paperwork burden related to preparing an application and that the benefits of these proposed priorities, requirements, definition, and selection

criteria would outweigh any costs incurred by the applicant. Therefore, these proposed priorities, requirements, definition, and selection criteria would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act: The proposed priorities, requirements, definition, and selection criteria do not contain any information collection requirements.

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.

Assessment of Educational Impact

In accordance with section 411 of GEPA, 20 U.S.C. 1221e-4, the Secretary particularly requests comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of the Department published in the *Federal Register*, in text or 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.

Frank T. Brogan,
*Assistant Secretary for
Elementary and Secondary
Education.*

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