

address, please refer to "File No. 265–26" on the subject line.

#### SEC's Internet Submission Form

<http://www.sec.gov/rules/other.shtml>.

#### Regular Mail

Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention Office of the Secretary or Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Mail Stop 1090, 100 F St., NE., Washington, DC 20549. Comments mailed to this address should be submitted in triplicate and should refer to File No. 265–26.

#### Fax

(202) 418–5521. Any statements submitted in connection with the committee meeting will be made available to the public.

#### FOR FURTHER INFORMATION CONTACT:

Martin White, Committee Management Officer, at (202) 418–5129, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581; Ronesha Butler, Special Counsel, at (202) 551–5629, Division of Trading and Markets, Securities and Exchange Commission, 100 F St., NE., Washington, DC 20549; or Elizabeth M. Murphy, Committee Management Officer, at (202) 551–5400, Securities and Exchange Commission, 100 F St., NE., Washington, DC 20549

**SUPPLEMENTARY INFORMATION:** The meeting will be webcast on the CFTC's Web site, <http://www.cftc.gov>. Members of the public also can listen to the meeting by telephone. The public access call-in numbers will be announced at a later date. The CFTC and SEC are providing less than fifteen calendar days **Federal Register** notice of this meeting because of the urgency of the issues being addressed.

**Authority:** 5 U.S.C. app. 2 § 10(a)(2).

By the Commodity Futures Trading Commission.

**Martin White,**

*Committee Management Officer.*

By the Securities and Exchange Commission.

Dated: October 25, 2010.

**Elizabeth M. Murphy,**

*Committee Management Officer.*

[FR Doc. 2010–27315 Filed 10–27–10; 8:45 am]

**BILLING CODE 6351–01–P; 8011–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

The following notice of scheduled meetings is published pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, 5 U.S.C. 552b.

#### AGENCY HOLDING THE MEETINGS:

Commodity Futures Trading Commission.

**TIMES AND DATES:** The Commission has scheduled four meetings for the following dates:

November 10 from 1 p.m. to 4 p.m.  
November 19 from 9:30 a.m. to 5:30 p.m.  
November 30 from 9:30 a.m. to 12:30 p.m.  
December 1 from 9:30 a.m. to 12:30 p.m.

**PLACE:** Three Lafayette Center, 1155 21st St., NW., Washington, DC, Lobby Level Hearing Room (Room 1000).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission has scheduled these meetings to consider the issuance of various proposed rules. Agendas for each of the scheduled meetings will be made available to the public and posted on the Commission's Web site at <http://www.cftc.gov> at least seven (7) days prior to the meeting. In the event that the times or dates of the meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site.

#### CONTACT PERSON FOR MORE INFORMATION:

David A. Stawick, Secretary of the Commission, 202–418–5071.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. 2010–27473 Filed 10–26–10; 4:15 pm]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF EDUCATION

[Docket ID ED–2009–OESE–0010]

**RIN 1810–AB06**

### School Improvement Grants; American Recovery and Reinvestment Act of 2009 (ARRA); Title I of the Elementary and Secondary Education Act of 1965, as Amended (ESEA)

**ACTION:** Final requirements for School Improvement Grants authorized under section 1003(g) of Title I of the ESEA.

**SUMMARY:** The U.S. Secretary of Education (Secretary) is adopting as

final, without changes, interim final requirements for the School Improvement Grants (SIG) program authorized under section 1003(g) of Title I of the ESEA. These final requirements are needed to incorporate new authority included in the Consolidated Appropriations Act, 2010 (Pub. L. 111–117) applicable to fiscal year (FY) 2010 SIG funds and FY 2009 ARRA SIG funds. Specifically, the Consolidated Appropriations Act, 2010 expanded the group of schools that are eligible to receive SIG funds. In addition, the Consolidated Appropriations Act, 2010 raised the maximum amount of SIG funds that a State educational agency (SEA) may award to a local educational agency (LEA) for each participating school from \$500,000 to \$2,000,000. These final requirements amend the final requirements for the SIG program that were published on December 10, 2009. **DATES:** These requirements are effective November 29, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Patricia McKee, *Telephone:* 202–260–0826 or by *e-mail:*

[Patricia.McKee@ed.gov](mailto:Patricia.McKee@ed.gov).

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

Individuals with disabilities can obtain this document in an accessible format (*e.g.*, braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** The Secretary published final requirements for the SIG program in the **Federal Register** on December 10, 2009 (74 FR 65618). Subsequently, on December 16, 2009, the President signed into law the Consolidated Appropriations Act, 2010, which contained FY 2010 appropriations for the Department, and which also included two provisions applicable to the use of both FY 2010 SIG funds and FY 2009 ARRA SIG funds. First, the Consolidated Appropriations Act, 2010 expanded eligibility for participation in the SIG program by permitting an SEA to award SIG funds for, and for an LEA to use those funds to serve, any school that is eligible to receive assistance under Title I, Part A and that: (1) Has not made adequate yearly progress (AYP) for at least two years; or (2) is in the State's lowest quintile of performance based on proficiency rates. With respect to secondary schools, the Consolidated Appropriations Act, 2010 gave priority to high schools with graduation rates

below 60 percent. Second, the Consolidated Appropriations Act, 2010 raised the maximum subgrant size for a participating school from \$500,000 to \$2,000,000.<sup>1</sup>

On January 21, 2010, the Secretary published interim final requirements for the SIG program in the **Federal Register** (75 FR 3375) to incorporate this new authority into the SIG final requirements that were published on December 10, 2009. The interim final requirements became effective February 8, 2010; however, at the time the interim final requirements were published, the Secretary invited public comment. During the public comment period, we received only one comment on the interim final requirements. That comment expressed general disagreement with the SIG final requirements published on December 10, 2009 but did not address the changes to those requirements made by the interim final requirements.

Absent any public comments addressing the changes to the December 10 SIG final requirements made in the January 21 interim final requirements, the Secretary has determined that no substantive changes to the interim final requirements are necessary; hence, with the exception of two technical changes described herein, there are no differences between the interim final requirements and these final requirements.

For the reasons explained in the preamble to the interim final requirements (75 FR 3375, 3376–80), the Secretary adopts as final the interim final requirements as follows:

1. *Section I.A.1—defining “greatest need”*: The Secretary amends the definitions of Tier I, Tier II, and Tier III schools to incorporate the expanded eligibility provided for in the Consolidated Appropriations Act, 2010.

<sup>1</sup> These two provisions apply only to FY 2009 ARRA SIG funds and FY 2010 SIG funds; they do not apply to SIG funds made available through the Consolidated Appropriations Act, 2009 (*i.e.*, the regular FY 2009 SIG funds). Therefore, prior to October 1, 2010, regular FY 2009 SIG funds may not be spent pursuant to the flexibility in these provisions. Regular FY 2009 SIG funds, however, become subject to the requirements applicable to FY 2010 SIG funds on October 1, 2010 when they become carryover funds. See section 421(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1225(b)(2)(A)). Accordingly, in order to ensure compliance with the Consolidated Appropriations Act, 2010, we will consider LEAs’ obligations of SIG funds in the State as a whole prior to October 1, 2010 to come from the State’s allocation of FY 2009 ARRA SIG funds, which we believe in every State will be more than sufficient to cover those obligations. Beginning October 1, 2010, LEAs may use all SIG funds, including regular FY 2009 SIG funds, pursuant to the flexibility in these provisions, consistent with the final requirements as amended.

The final requirements do not change the definition of “persistently lowest-achieving schools” as that definition is used to define Tier I and Tier II schools but permit an SEA, at its option, to identify additional schools in each tier.

With respect to Tier I, in addition to the Title I schools in improvement, corrective action, or restructuring that an SEA identifies as persistently lowest-achieving schools, the SEA may identify any elementary school that (1) is eligible to receive Title I, Part A funds (including schools that receive Title I, Part A funds and those that do not); (2) either has not made AYP for at least two consecutive years or is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (3) is no higher achieving on the State’s assessments combined than the highest-achieving Tier I school that the SEA has identified under paragraph (a)(1)(i) of the definition of “persistently lowest-achieving schools.” These newly eligible schools may be Title I schools that are not identified for improvement, corrective action, or restructuring or schools eligible for, but not receiving, Title I, Part A funds, provided they meet the criteria in section I.A.1(a)(ii) of these final requirements.

With respect to Tier II, in addition to the secondary schools that are eligible for, but do not receive, Title I, Part A funds that an SEA identifies as persistently lowest-achieving schools, the SEA may identify any secondary school that (1) is eligible to receive Title I, Part A funds (including schools that receive Title I, Part A funds and those that do not); (2) either has not made AYP for at least two consecutive years or is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (3) either is no higher achieving on the State’s assessments combined than the highest-achieving Tier II school that the SEA has identified under paragraph (a)(2)(i) of the definition of “persistently lowest-achieving schools” or is a high school that has had a graduation rate that is less than 60 percent over a number of years. Tier II secondary schools that an SEA has identified as persistently lowest-achieving schools—*i.e.*, secondary schools that are eligible for, but do not receive, Title I, Part A funds—are eligible without the need for an SEA or LEA to obtain a waiver of section 1003(g)’s limitation on serving only Title I schools in improvement,

corrective action, or restructuring. Tier II also may now include Title I secondary schools that are or are not in improvement, corrective action, or restructuring if those schools meet the criteria in section I.A.1(b)(ii) of these final requirements and are not already captured in Tier I.

With respect to Tier III, in addition to any Title I school in improvement, corrective action, or restructuring that is not a Tier I or Tier II school, an SEA may identify any school that (1) is eligible for Title I, Part A funds (including schools that receive Title I, Part A funds and those that do not); (2) has not made AYP for at least two years or is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and (3) does not meet the requirements to be a Tier I or Tier II school. Thus, a Tier III school may be a Title I school in improvement, corrective action, or restructuring, a school that receives Title I, Part A funds that is not in improvement, or a school that is eligible for, but does not receive, Title I, Part A funds, provided the school meets one of the two criteria in section I.A.1(c)(ii)(A) of these final requirements.

The Secretary makes a technical change in section I.A.1(c)(i) that was not in the interim final requirements to make clear that a Tier III school may be a Title I school in improvement, corrective action, or restructuring that is not a Tier I or a Tier II school. The addition of the phrase “or a Tier II” school in this section is necessary because a Title I secondary school in improvement, corrective action, or restructuring could be a newly eligible Tier II school at an SEA’s option and, therefore, could not be a Tier III school.

2. *Section I.A.4—evidence of strongest commitment*: The Secretary amends section I.A.4 to refer to Tier I and Tier II schools rather than persistently lowest-achieving schools to reflect the possibility that an SEA has added newly eligible schools to Tier I and Tier II.

3. *Sections I.B.2 and I.B.3—waivers for Tier I and Tier II Title I participating schools*: The Secretary amends section I.B.2 to clarify that an SEA may seek a waiver of the school improvement timeline in section 1116(b) with respect to a Tier I or Tier II Title I participating school that implements a turnaround or restart model. The Secretary also amends section I.B.3 to clarify that an SEA may seek a waiver of the schoolwide program poverty threshold in section 1114(a) with respect to a Tier I or Tier II Title I participating school

below that threshold in order that the school may implement one of the school intervention models through a schoolwide program.

4. *Section I.B.4—waiver to serve non-Title I secondary schools:* The Secretary removes section I.B.4, which permitted an SEA to seek a waiver to enable an LEA to use SIG funds to serve secondary schools that are eligible for, but do not receive, Title I, Part A funds, because it is no longer needed.

5. *New section I.B.4 (formerly section I.B.5)—extending the period of availability:* In new section I.B.4, which permits an SEA to seek a waiver to extend the period of availability of SIG funds, the Secretary makes a technical change that was not in the interim final requirements to remove the phrase “beyond September 30, 2011”. That phrase applied to FY 2009 SIG funds but is not applicable to FY 2010 SIG funds, which are available through September 30, 2012 without a waiver of the period of availability. We are removing the phrase to ensure there is no confusion about the period of availability of FY 2010 SIG funds. Thus, an SEA requesting a waiver to extend the period of availability for its FY 2010 SIG funds under this provision would be requesting a waiver for extension beyond September 30, 2012.

6. *Section II.A.1—LEA eligibility:* The Secretary amends section II.A.1 to make clear that an LEA may apply for a SIG grant if the LEA receives Title I, Part A funds and has one or more schools that qualify under the State’s definition of a Tier I, Tier II, or Tier III school.

7. *Sections II.A.4 and II.A.5—LEA’s budget:* The Secretary removes language that is no longer necessary from sections II.A.4 and II.A.5 regarding an LEA’s budget because the Consolidated Appropriations Act, 2010 raised the maximum amount for each participating school from \$500,000 to \$2,000,000. Thus, an LEA’s budget can reflect more accurately the actual amount needed to implement one of the four school intervention models in each Tier I and Tier II school the LEA commits to serve, and the LEA can budget more accurately for its Tier III schools without concern that they generate funds for the LEA’s Tier I and Tier II schools.

8. *Section II.A.6—SIG funds are supplemental:* The Secretary adds section II.A.6, which requires an LEA that commits to serve one or more Tier I, Tier II, or Tier III schools that do not receive Title I, Part A funds to ensure that each of those schools receives all of the State and local funds it would have received in the absence of the SIG funds.

9. *Sections II.B.4 and II.B.7 (formerly II.B.8)—priority for funding Tier I and Tier II schools:* The Secretary amends sections II.B.4 and II.B.7 (as well as various other sections—e.g., sections II.A.1, II.A.3) to give equal status to Tier I and Tier II schools. Accordingly, sections II.B.4 and II.B.7 make clear that an LEA that applies to serve either Tier I or Tier II schools receives priority before an LEA that applies to serve only Tier III schools. Moreover, as section II.B.7 makes clear, an SEA must award SIG funds to each LEA to serve the Tier I and Tier II schools that the SEA has approved the LEA to serve before awarding any funds to an LEA to serve a Tier III school. In other words, an SEA must ensure that all Tier I and Tier II schools are funded before it funds the Tier III schools identified in its LEAs’ applications.

10. *Section II.B.5—size of LEA grant awards:* The Secretary amends section II.B.5 to clarify that the Consolidated Appropriations Act, 2010 raised the maximum amount an LEA may receive per year for each Tier I, Tier II, and Tier III school the LEA commits to serve from \$500,000 to \$2,000,000.

11. *Section II.B.6—allocating SIG funds to LEAs:* The Secretary removes section II.B.6, which governed the allocation of SIG funds to LEAs, because it is no longer needed after the Consolidated Appropriations Act, 2010 extended the maximum amount an LEA may receive for each school to \$2,000,000.

12. *Section II.B.9 (formerly II.B.10)—2010 SIG appropriations:* The Secretary removes the phrase “(depending on the availability of appropriations)” in section II.B.9(a) and (b) because the Consolidated Appropriations Act, 2010 appropriated SIG funds for FY 2010.

13. *Section II.C—renewal for additional one-year periods:* These final requirements amend section II.C.1(a) to require Tier III schools that receive SIG funds to meet “goals established by the LEA and approved by the SEA.”

## Final Requirements

The Secretary adopts as final the interim final requirements (with the technical changes described herein) published in the **Federal Register** on January 21, 2010 (75 FR 3375). For the ease of the user of the final requirements, the Secretary has incorporated the changes made by these final requirements into the December 10, 2009 final requirements as published at 74 FR 65618 and is publishing a combined set of SIG final requirements as follows:

## I. SEA Priorities in Awarding School Improvement Grants

A. *Defining key terms.* To award School Improvement Grants to its LEAs, consistent with section 1003(g)(6) of the ESEA, an SEA must define three tiers of schools, in accordance with the requirements in paragraph 1, to enable the SEA to select those LEAs with the greatest need for such funds. From among the LEAs in greatest need, the SEA must select, in accordance with paragraph 2, those LEAs that demonstrate the strongest commitment to ensuring that the funds are used to provide adequate resources to enable the lowest-achieving schools to meet the accountability requirements in this notice. Accordingly, an SEA must use the following definitions to define key terms:

1. *Greatest need.* An LEA with the greatest need for a School Improvement Grant must have one or more schools in at least one of the following tiers:

(a) *Tier I schools:* (i) A Tier I school is a Title I school in improvement, corrective action, or restructuring that is identified by the SEA under paragraph (a)(1) of the definition of “persistently lowest-achieving schools.”

(ii) At its option, an SEA may also identify as a Tier I school an elementary school that is eligible for Title I, Part A funds that—

(A)(1) Has not made adequate yearly progress for at least two consecutive years; or

(2) Is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and

(B) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(1)(i) of the definition of “persistently lowest-achieving schools.”

(b) *Tier II schools:* (i) A Tier II school is a secondary school that is eligible for, but does not receive, Title I, Part A funds and is identified by the SEA under paragraph (a)(2) of the definition of “persistently lowest-achieving schools.”

(ii) At its option, an SEA may also identify as a Tier II school a secondary school that is eligible for Title I, Part A funds that—

(A)(1) Has not made adequate yearly progress for at least two consecutive years; or

(2) Is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and

(B)(1) Is no higher achieving than the highest-achieving school identified by the SEA under paragraph (a)(2)(i) of the definition of “persistently lowest-achieving schools;” or

(2) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

(c) *Tier III schools:* (i) A Tier III school is a Title I school in improvement, corrective action, or restructuring that is not a Tier I or a Tier II school.

(ii) At its option, an SEA may also identify as a Tier III school a school that is eligible for Title I, Part A funds that—

(A)(1) Has not made adequate yearly progress for at least two years; or

(2) Is in the State’s lowest quintile of performance based on proficiency rates on the State’s assessments under section 1111(b)(3) of the ESEA in reading/ language arts and mathematics combined; and

(B) Does not meet the requirements to be a Tier I or Tier II school.

(iii) An SEA may establish additional criteria to use in setting priorities among LEA applications for funding and to encourage LEAs to differentiate among Tier III schools in their use of school improvement funds.

2. *Strongest Commitment.* An LEA with the strongest commitment is an LEA that agrees to implement, and demonstrates the capacity to implement fully and effectively, one of the following rigorous interventions in each Tier I and Tier II school that the LEA commits to serve:

(a) *Turnaround model:* (1) A turnaround model is one in which an LEA must—

(i) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(ii) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students,

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(iii) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(iv) Provide staff ongoing, high-quality, job-embedded professional development that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(v) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new “turnaround office” in the LEA or SEA, hire a “turnaround leader” who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability;

(vi) Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards;

(vii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(viii) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and

(ix) Provide appropriate social-emotional and community-oriented services and supports for students.

(2) A turnaround model may also implement other strategies such as—

(i) Any of the required and permissible activities under the transformation model; or

(ii) A new school model (e.g., themed, dual language academy).

(b) *Restart model:* A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

(c) *School closure:* School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable

proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.

(d) *Transformation model:* A transformation model is one in which an LEA implements each of the following strategies:

(1) *Developing and increasing teacher and school leader effectiveness.*

(i) *Required activities.* The LEA must—

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that—

(1) Take into account data on student growth (as defined in this notice) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high school graduation rates; and

(2) Are designed and developed with teacher and principal involvement;

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(ii) *Permissible activities.* An LEA may also implement other strategies to develop teachers’ and school leaders’ effectiveness, such as—

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(2) *Comprehensive instructional reform strategies.*

(i) *Required activities.* The LEA must—

(A) Use data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(ii) *Permissible activities.* An LEA may also implement comprehensive instructional reform strategies, such as—

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a schoolwide “response-to-intervention” model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited English proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools—

(1) Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement; International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

(2) Improving student transition from middle to high school through summer

transition programs or freshman academies;

(3) Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

(4) Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(3) *Increasing learning time and creating community-oriented schools.*

(i) *Required activities.* The LEA must—

(A) Establish schedules and strategies that provide increased learning time (as defined in this notice); and

(B) Provide ongoing mechanisms for family and community engagement.

(ii) *Permissible activities.* An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as—

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(4) *Providing operational flexibility and sustained support.*

(i) *Required activities.* The LEA must—

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the SEA, or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(ii) *Permissible activities.* The LEA may also implement other strategies for providing operational flexibility and intensive support, such as—

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

3. *Definitions.*

*Increased learning time* means using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects including English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography; (b) instruction in other subjects and enrichment activities that contribute to a well-rounded education, including, for example, physical education, service learning, and experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects.<sup>2</sup>

*Persistently lowest-achieving schools* means, as determined by the State—

(a)(1) Any Title I school in improvement, corrective action, or restructuring that—

(i) Is among the lowest-achieving five percent of Title I schools in improvement, corrective action, or restructuring or the lowest-achieving five Title I schools in improvement, corrective action, or restructuring in the State, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years; and

(2) Any secondary school that is eligible for, but does not receive, Title I funds that—

<sup>2</sup> Research supports the effectiveness of well-designed programs that expand learning time by a minimum of 300 hours per school year. (See Frazier, Julie A.; Morrison, Frederick J. “The Influence of Extended-Year Schooling on Growth of Achievement and Perceived Competence in Early Elementary School.” *Child Development*. Vol. 69 (2), April 1998, pp.495–497 and research done by Mass2020.) Extending learning into before- and after-school hours can be difficult to implement effectively, but is permissible under this definition with encouragement to closely integrate and coordinate academic work between in school and out of school. (See James-Burdumy, Susanne; Dynarski, Mark; Deke, John. “When Elementary Schools Stay Open Late: Results from The National Evaluation of the 21st Century Community Learning Centers Program.” *Educational Evaluation and Policy Analysis*, Vol. 29 (4), December 2007, Document No. PP07–121.) ([http://www.mathematica-mpr.com/publications/redirect\\_PubsDB.asp?strSite=http://epa.sagepub.com/cgi/content/abstract/29/4/296](http://www.mathematica-mpr.com/publications/redirect_PubsDB.asp?strSite=http://epa.sagepub.com/cgi/content/abstract/29/4/296))

(i) Is among the lowest-achieving five percent of secondary schools or the lowest-achieving five secondary schools in the State that are eligible for, but do not receive, Title I funds, whichever number of schools is greater; or

(ii) Is a high school that has had a graduation rate as defined in 34 CFR 200.19(b) that is less than 60 percent over a number of years.

(b) To identify the lowest-achieving schools, a State must take into account both—

(i) The academic achievement of the “all students” group in a school in terms of proficiency on the State’s assessments under section 1111(b)(3) of the ESEA in reading/language arts and mathematics combined; and

(ii) The school’s lack of progress on those assessments over a number of years in the “all students” group.

*Student growth* means the change in achievement for an individual student between two or more points in time. For grades in which the State administers summative assessments in reading/language arts and mathematics, student growth data must be based on a student’s score on the State’s assessment under section 1111(b)(3) of the ESEA. A State may also include other measures that are rigorous and comparable across classrooms.

#### 4. *Evidence of strongest commitment.*

(a) In determining the strength of an LEA’s commitment to ensuring that school improvement funds are used to provide adequate resources to enable Tier I and Tier II schools to improve student achievement substantially, an SEA must consider, at a minimum, the extent to which the LEA’s application demonstrates that the LEA has taken, or will take, action to—

(i) Analyze the needs of its schools and select an intervention for each school;

(ii) Design and implement interventions consistent with these requirements;

(iii) Recruit, screen, and select external providers, if applicable, to ensure their quality;

(iv) Align other resources with the interventions;

(v) Modify its practices or policies, if necessary, to enable it to implement the interventions fully and effectively; and

(vi) Sustain the reforms after the funding period ends.

(b) The SEA must consider the LEA’s capacity to implement the interventions and may approve the LEA to serve only those Tier I and Tier II schools for which the SEA determines that the LEA can implement fully and effectively one of the interventions.

#### B. *Providing flexibility*

1. An SEA may award school improvement funds to an LEA for a Tier I or Tier II school that has implemented, in whole or in part, an intervention that meets the requirements under section I.A.2(a), 2(b), or 2(d) of these requirements within the last two years so that the LEA and school can continue or complete the intervention being implemented in that school.

2. An SEA may seek a waiver from the Secretary of the requirements in section 1116(b) of the ESEA in order to permit a Tier I or Tier II Title I participating school implementing an intervention that meets the requirements under section I.A.2(a) or 2(b) of these requirements in an LEA that receives a School Improvement Grant to “start over” in the school improvement timeline. Even though a school implementing the waiver would no longer be in improvement, corrective action, or restructuring, it may receive school improvement funds.

3. An SEA may seek a waiver from the Secretary to enable a Tier I or Tier II Title I participating school that is ineligible to operate a Title I schoolwide program and is operating a Title I targeted assistance program to operate a schoolwide program in order to implement an intervention that meets the requirements under section I.A.2(a), 2(b), or 2(d) of these requirements.

4. An SEA may seek a waiver from the Secretary to extend the period of availability of school improvement funds so as to make those funds available to the SEA and its LEAs for up to three years.

5. If an SEA does not seek a waiver under section I.B.2, 3, or 4, an LEA may seek a waiver.

## II. **Awarding School Improvement Grants to LEAs**

### A. *LEA Requirements*

1. An LEA may apply for a School Improvement Grant if it receives Title I, Part A funds and has one or more schools that qualify under the State’s definition of a Tier I, Tier II, or Tier III school.

2. In its application, in addition to other information that the SEA may require—

(a) The LEA must—

(i) Identify the Tier I, Tier II, and Tier III schools it commits to serve;

(ii) Identify the intervention it will implement in each Tier I and Tier II school it commits to serve;

(iii) Demonstrate that it has the capacity to use the school improvement funds to provide adequate resources and related support to each Tier I and Tier

II school it commits to serve in order to implement fully and effectively one of the four interventions identified in section I.A.2 of these requirements;

(iv) Provide evidence of its strong commitment to use school improvement funds to implement the four interventions by addressing the factors in section I.A.4(a) of these requirements;

(v) Include a timeline delineating the steps the LEA will take to implement the selected intervention in each Tier I and Tier II school identified in the LEA’s application; and

(vi) Include a budget indicating how it will allocate school improvement funds among the Tier I, Tier II, and Tier III schools it commits to serve.

(b) If an LEA has nine or more Tier I and Tier II schools, the LEA may not implement the transformation model in more than 50 percent of those schools.

3. The LEA must serve each Tier I school unless the LEA demonstrates that it lacks sufficient capacity (which may be due, in part, to serving Tier II schools) to undertake one of these rigorous interventions in each Tier I school, in which case the LEA must indicate the Tier I schools that it can effectively serve. An LEA may not serve with school improvement funds awarded under section 1003(g) of the ESEA a Tier I or Tier II school in which it does not implement one of the four interventions identified in section I.A.2 of these requirements.

4. The LEA’s budget for each Tier I and Tier II school it commits to serve must be of sufficient size and scope to ensure that the LEA can implement one of the rigorous interventions identified in section I.A.2 of these requirements. The LEA’s budget must cover the period of availability of the school improvement funds, taking into account any waivers extending the period of availability received by the SEA or LEA.

5. The LEA’s budget for each Tier III school it commits to serve must include the services it will provide the school, particularly if the school meets additional criteria established by the SEA.

6. An LEA that commits to serve one or more Tier I, Tier II, or Tier III schools that do not receive Title I, Part A funds must ensure that each such school it serves receives all of the State and local funds it would have received in the absence of the school improvement funds.

7. An LEA in which one or more Tier I schools are located and that does not apply to serve at least one of these schools may not apply for a grant to serve only Tier III schools.

8. (a) To monitor each Tier I and Tier II school that receives school improvement funds, an LEA must—

(i) Establish annual goals for student achievement on the State's assessments in both reading/language arts and mathematics; and

(ii) Measure progress on the leading indicators in section III of these requirements.

(b) The LEA must also meet the requirements with respect to adequate yearly progress in section 1111(b)(2) of the ESEA.

9. If an LEA implements a restart model, it must hold the charter school operator, CMO, or EMO accountable for meeting the final requirements.

#### *B. SEA requirements*

1. To receive a School Improvement Grant, an SEA must submit an application to the Department at such time, and containing such information, as the Secretary shall reasonably require.

2. (a) An SEA must review and approve, consistent with these requirements, an application for a School Improvement Grant that it receives from an LEA.

(b) Before approving an LEA's application, the SEA must ensure that the application meets these requirements, particularly with respect to—

(i) Whether the LEA has agreed to implement one of the four interventions identified in section I.A.2 of these requirements in each Tier I and Tier II school included in its application;

(ii) The extent to which the LEA's application shows the LEA's strong commitment to use school improvement funds to implement the four interventions by addressing the factors in section I.A.4(a) of these requirements;

(iii) Whether the LEA has the capacity to implement the selected intervention fully and effectively in each Tier I and Tier II school identified in its application; and

(iv) Whether the LEA has submitted a budget that includes sufficient funds to implement the selected intervention fully and effectively in each Tier I and Tier II school it identifies in its application and whether the budget covers the period of availability of the funds, taking into account any waiver extending the period of availability received by either the SEA or the LEA.

(c) An SEA may, consistent with State law, take over an LEA or specific Tier I or Tier II schools in order to implement the interventions in these requirements.

(d) An SEA may not require an LEA to implement a particular model in one

or more schools unless the SEA has taken over the LEA or school.

(e) To the extent that a Tier I or Tier II school implementing a restart model becomes a charter school LEA, an SEA must hold the charter school LEA accountable, or ensure that the charter school authorizer holds it accountable, for complying with these requirements.

3. An SEA must post on its Web site, within 30 days of awarding School Improvement Grants to LEAs, all final LEA applications as well as a summary of those grants that includes the following information:

(a) Name and National Center for Education Statistics (NCES) identification number of each LEA awarded a grant.

(b) Amount of each LEA's grant.

(c) Name and NCES identification number of each school to be served.

(d) Type of intervention to be implemented in each Tier I and Tier II school.

4. If an SEA does not have sufficient school improvement funds to award, for up to three years, a grant to each LEA that submits an approvable application, the SEA must give priority to LEAs that apply to serve Tier I or Tier II schools.

5. An SEA must award a School Improvement Grant to an LEA in an amount that is of sufficient size and scope to support the activities required under section 1116 of the ESEA and these requirements. The LEA's total grant may not be less than \$50,000 or more than \$2,000,000 per year for each Tier I, Tier II, and Tier III school that the LEA commits to serve.

6. If an SEA does not have sufficient school improvement funds to allocate to each LEA with a Tier I or Tier II school an amount sufficient to enable the school to implement fully and effectively the specified intervention throughout the period of availability, including any extension afforded through a waiver, the SEA may take into account the distribution of Tier I and Tier II schools among such LEAs in the State to ensure that Tier I and Tier II schools throughout the State can be served.

7. An SEA must award funds to serve each Tier I and Tier II school that its LEAs commit to serve, and that the SEA determines its LEAs have the capacity to serve, prior to awarding funds to its LEAs to serve any Tier III schools. If an SEA has awarded school improvement funds to its LEAs for each Tier I and Tier II school that its LEAs commit to serve in accordance with these requirements, the SEA may then, consistent with section II.B.9, award remaining school improvement funds to

its LEAs for the Tier III schools that its LEAs commit to serve.

8. In awarding School Improvement Grants, an SEA must apportion its school improvement funds in order to make grants to LEAs, as applicable, that are renewable for the length of the period of availability of the funds, taking into account any waivers that may have been requested and received by the SEA or an individual LEA to extend the period of availability.

9. (a) If not every Tier I school in a State is served with FY 2009 school improvement funds, an SEA must carry over 25 percent of its FY 2009 funds, combine those funds with FY 2010 school improvement funds, and award those funds to eligible LEAs consistent with these requirements. This requirement does not apply in a State that does not have sufficient school improvement funds to serve all the Tier I schools in the State.

(b) If each Tier I school in a State is served with FY 2009 school improvement funds, an SEA may reserve up to 25 percent of its FY 2009 allocation and award those funds in combination with its FY 2010 funds consistent with these requirements.

10. In identifying Tier I and Tier II schools in a State for purposes of allocating funds appropriated for School Improvement Grants under section 1003(g) of the ESEA for any year subsequent to FY 2009, an SEA must exclude from consideration any school that was previously identified as a Tier I or Tier II school and in which an LEA is implementing one of the four interventions identified in these requirements using funds made available under section 1003(g) of the ESEA.

11. An SEA that is participating in the "differentiated accountability pilot" must ensure that its LEAs use school improvement funds available under section 1003(g) of the ESEA in a Tier I or Tier II school consistent with these requirements.

12. Before submitting its application for a School Improvement Grant to the Department, the SEA must consult with its Committee of Practitioners established under section 1903(b) of the ESEA regarding the rules and policies contained therein and may consult with other stakeholders that have an interest in its application.

#### *C. Renewal for Additional One-Year Periods*

1. If an SEA or an individual LEA requests and receives a waiver of the period of availability of school improvement funds, an SEA—



(a) Must renew the School Improvement Grant for each affected LEA for additional one-year periods commensurate with the period of availability if the LEA demonstrates that its Tier I and Tier II schools are meeting the requirements in section II.A.8, and that its Tier III schools are meeting the goals established by the LEA and approved by the SEA; and

(b) May renew an LEA's School Improvement Grant if the SEA determines that the LEA's schools are making progress toward meeting the requirements in section II.A.8 or the goals established by the LEA.

2. If an SEA does not renew an LEA's School Improvement Grant because the LEA's participating schools are not meeting the requirements in section II.A.8 or the goals established by the LEA, the SEA may reallocate those funds to other eligible LEAs, consistent with these requirements.

#### *D. State Reservation for Administration, Evaluation, and Technical Assistance*

An SEA may reserve from the school improvement funds it receives under section 1003(g) of the ESEA in any given year no more than five percent for administration, evaluation, and technical assistance expenses. An SEA

must describe in its application for a School Improvement Grant how the SEA will use these funds.

#### *E. A State Whose School Improvement Grant Exceeds the Amount the State May Award to Eligible LEAs*

In some States in which a limited number of Title I schools are identified for improvement, corrective action, or restructuring, the SEA may be able to make School Improvement Grants, renewable for additional years commensurate with the period of availability of the funds, to each LEA with a Tier I, Tier II, or Tier III school without using the State's full allocation under section 1003(g) of the ESEA. An SEA in this situation may reserve no more than five percent of its FY 2009 allocation of school improvement funds for administration, evaluation, and technical assistance expenses under section 1003(g)(8) of the ESEA. The SEA may retain sufficient school improvement funds to serve, for succeeding years, each Tier I, II, and III school that generates funds for an eligible LEA. The Secretary may reallocate to other States any remaining school improvement funds from States with surplus funds.

### **III. Reporting and Evaluation**

#### *A. Reporting Metrics*

To inform and evaluate the effectiveness of the interventions identified in these requirements, the Secretary will collect data on the metrics in the following chart. The Department already collects most of these data through *EDFacts* and will collect data on two metrics through SFSF reporting. Accordingly, an SEA must only report the following new data with respect to school improvement funds:

1. A list of the LEAs, including their NCES identification numbers, that received a School Improvement Grant under section 1003(g) of the ESEA and the amount of the grant.

2. For each LEA that received a School Improvement Grant, a list of the schools that were served, their NCES identification numbers, and the amount of funds or value of services each school received.

3. For any Tier I or Tier II school, school-level data on the metrics designated on the following chart as "SIG" (School Improvement Grant):

Metric	Source	Achievement indicators	Leading indicators
<b>SCHOOL DATA</b>			
Which intervention the school used ( <i>i.e.</i> , turnaround, restart, closure, or transformation).	NEW SIG.		
AYP status .....	<i>EDFacts</i> .....	✓	
Which AYP targets the school met and missed .....	<i>EDFacts</i> .....	✓	
School improvement status .....	<i>EDFacts</i> .....	✓	
Number of minutes within the school year .....	NEW SIG .....		✓
<b>STUDENT OUTCOME/ACADEMIC PROGRESS DATA</b>			
Percentage of students at or above each proficiency level on State assessments in reading/language arts and mathematics ( <i>e.g.</i> , Basic, Proficient, Advanced), by grade and by student subgroup.	<i>EDFacts</i> .....	✓	
Student participation rate on State assessments in reading/language arts and in mathematics, by student subgroup.	<i>EDFacts</i> .....		✓
Average scale scores on State assessments in reading/language arts and in mathematics, by grade, for the "all students" group, for each achievement quartile, and for each subgroup.	NEW SIG .....	✓	
Percentage of limited English proficient students who attain English language proficiency.	<i>EDFacts</i> .....	✓	
Graduation rate .....	<i>EDFacts</i> .....	✓	
Dropout rate .....	<i>EDFacts</i> .....		✓
Student attendance rate .....	<i>EDFacts</i> .....		✓



Metric	Source	Achievement indicators	Leading indicators
Number and percentage of students completing advanced coursework (e.g., AP/IB), early-college high schools, or dual enrollment classes.	NEW SIG HS only ....		✓
College enrollment rates .....	NEW SFSF Phase II HS only.	✓	
<b>STUDENT CONNECTION AND SCHOOL CLIMATE</b>			
Discipline incidents .....	EDFacts .....		✓
Truants .....	EDFacts .....		✓
<b>TALENT</b>			
Distribution of teachers by performance level on LEA's teacher evaluation system .....	NEW SFSF Phase II		✓
Teacher attendance rate .....	NEW SIG .....		✓

4. An SEA must report these metrics for the school year prior to implementing the intervention, if the data are available, to serve as a baseline, and for each year thereafter for which the SEA allocates school improvement funds under section 1003(g) of the ESEA. With respect to a school that is closed, the SEA need report only the identity of the school and the intervention taken—i.e., school closure.

#### B. Evaluation

An LEA that receives a School Improvement Grant must participate in any evaluation of that grant conducted by the Secretary.

#### Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether a 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 local 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 set forth in the Executive order. The Secretary has determined

that this regulatory action is not significant under section 3(f) of the Executive order.

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

We summarized the potential costs and benefits of these final requirements in the interim final requirements at 75 FR 3375, 3382.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these final requirements will not have a significant economic impact on a substantial number of small entities for the reasons summarized in the interim final requirements at 75 FR 3375, 3382–3383.

#### Paperwork Reduction Act of 1995

These final requirements contain information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The Department received emergency approval for the information collections in the SIG final requirements published on December 10, 2009, under OMB Control Number 1810–0682. OMB approved changes described in the interim final requirements at 75 FR 3375, 3383 on January 20, 2010. On June 10, 2010, the Department submitted a request to OMB for regular approval of this collection and received approval on September 22, 2010, under the OMB control number 1810–0682, which lasts until September 30, 2013.

#### Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR 79.

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Dated: October 25, 2010.

**Arne Duncan,**

*Secretary of Education.*

[FR Doc. 2010–27313 Filed 10–27–10; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

October 21, 2010.

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC11–11–000

*Applicants:* Champion Energy Marketing LLC, EDF Trading North America, LLC

*Description:* Section 203 Application of Champion Energy Marketing LLC and EDF Trading North America, LLC.

*Filed Date:* 10/20/2010

*Accession Number:* 20101020–5152

*Comment Date:* 5 p.m. Eastern Time on Wednesday, November 10, 2010