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DEPARTMENT OF EDUCATION

[Docket ID ED-2020-OESE-0025]

Final 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: Final priorities, requirements, definition, and selection criteria.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces 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 a competition in fiscal year (FY) 2020 and in later years. The Department intends 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.

DATES: These priorities, requirements, definition, and selection criteria are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

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.

We published a notice of proposed priorities, requirements, definition, and selection criteria for this program in the *Federal Register* on April 13, 2020 (85 FR 20455) (the NPP). That document contained background information and our reasons for proposing the priorities, requirements, definition, and selection criteria for Education Innovation and Research--Teacher-Directed Professional Learning Experiences.

Public Comment: In response to our invitation in the NPP, 89 parties submitted comments pertinent to the proposed priorities, requirements, definition, and selection criteria. We group major issues according to subject. Generally, we do not address comments that are outside the scope of the proposed priorities, requirements, definition, and selection criteria.

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

General Comments; Priority 1--Teacher-Directed Professional Learning.

Comments: Among the 19 comments of general support, commenters indicated overall support for the concept of

teachers choosing their own professional learning, emphasized the need for flexibility, and acknowledged the insufficiency of the current status of teacher professional development. Five commenters expressed that one-size-fits-all professional development does not work and that the ability for teachers to differentiate and customize their learning is important. Two commenters specifically noted having participated in similar stipend programs in the past that those commenters found to be successful. In addition to the 19 comments of support, 33 commenters also expressed support for the general idea but offered specific feedback, and their comments are accounted for in the sections that follow.

Discussion: We appreciate the support for these proposed priorities, requirements, definition, and selection criteria and agree that teachers' differentiation and customization of their learning is important.

Changes: None.

Comments: Thirty-seven commenters opposed the general idea of teacher-driven professional learning stipends, including Proposed Priority 1. Commenters opposed the use of EIR funds for this purpose based on the need for prior evidence of the success of stipend programs (15 comments) and expressed concern about narrowing the focus of EIR or

undermining other investments such as ESEA title II, part A (14 comments). Commenters also offered input about a preference to support collaborative learning (such as a training for all mathematics teachers at a school to uniformly adopt a new approach) instead of individually driven learning (such as one mathematics teacher learning about an innovative approach and applying different methods from the other mathematics teachers) (17 comments). Other commenters expressed concern that not all teachers would have the opportunity to get a stipend, which could exacerbate between-classroom inequities (8 comments). Six commenters expressed their opinion that teacher choice already exists; in their school or district teachers already have a great deal of discretion regarding the professional learning in which they engage. Another six commenters suggested that it is the role of principals, rather than the teachers, themselves, to make decisions about professional development for their teachers given the principal's awareness of school-level needs. Five commenters stated concerns that the concept of teacher-driven professional learning assumes that teachers know what kinds of professional development they need but that they need guidance and support from school and district leaders to identify areas for growth. Related to these

comments of general opposition were comments about the need for districts and school leaders to set professional learning priorities aligned to district and school priorities and that the quality of professional learning funded by the stipends might vary; those comments are specifically addressed in the relevant sections that follow.

Discussion: We appreciate these commenters' perspectives. The Department does not agree with the argument that the lack of robust evidence on teacher-driven professional learning is a reason not to hold a competition in this area. For any EIR competition that uses the proposed priorities, the Department intends to build evidence about teacher-selected professional learning consistent with the EIR program's purpose of supporting innovation in education. Additionally, the Department believes that there is sufficient evidence about teacher-directed professional learning that would meet the "demonstrates a rationale" evidence requirement should this priority be used in an Early-phase competition; furthermore, applicants must submit sufficient evidence to that end to be eligible for that grant. Moreover, we do think that applicants will apply to meet this lower evidence tier and that the evidence requirement will not be a barrier for applicants.

Regarding comments about narrowing the focus of EIR, the Department annually examines the needs of the field and the existing projects in the EIR portfolio to determine the priorities in that year's competitions. Although commenters raised concerns that such a priority could undermine title II, part A, the Department notes that title II, part A was funded by Congress in FY 2020 and is a separate funding stream with separate statutory requirements. These final priorities provide the Department an opportunity to complement those investments and contribute ideas for ways that teacher voice can be better included in how professional learning is delivered. The Department also includes an assurance that grantees will maintain current fiscal and administrative levels of effort in teacher professional development to help ensure that this program offers an added value to professional learning.

The Department agrees that there is value in collaborative learning, and these priorities allow for teacher-driven decisions to use stipends in such ways including coaching, job shadows, and other peer learning opportunities. Applicants also have the discretion to continue implementing effective collaborative professional learning that already exists.

Although concerns were raised about not all teachers having access to the stipend, the Department believes the applicant is best situated to propose the pool of teachers their proposed program focuses on (i.e., which teachers may request a stipend). If an applicant were concerned about between-classroom inequities, they could recruit teachers who would most likely benefit from personalized support. EIR's focus on innovation is designed to iteratively test feasibility of projects before they are scaled to larger settings and populations. Should the program demonstrate success, such practices could be scaled for broader use. The Department believes this structure is a strategic and responsible means of piloting innovation at a small scale at the nascent phase.

The Department understands that there are a few existing cases of some degree of teacher choice in professional learning. However, it is not a broadly adopted policy or practice in education and is in need of further evaluation. The use of these priorities in EIR is intended to support field-initiated innovations that either build on existing efforts for, or initiate systemic changes that increase, teacher agency. Entities that believe they already have robust systems of teacher-selected professional learning are not required to apply for a

grant.

Principals continue to have an important role in supporting teachers and this program is intended to provide an additional set of resources that reinforce principals' efforts to recruit and retain a talented pool of professionals. Given that teachers also can have a vital role in professional learning decisions, this program focuses on enhancing the ways in which teachers are involved in identifying professional learning opportunities.

In response to comments about the ability of teachers to be reflective and self-aware enough to know their needs, the Department highly respects the teaching profession and teachers as professionals. As such, we believe that the teachers who request a stipend are likely to be individuals who are reflective practitioners eager to continue to hone their craft in a way that best supports the students they teach. The Department has structured this priority in a way that would encourage teachers to use data such as student achievement trends, evaluation or observation results, and other feedback about their performance to determine what types of professional learning the stipend could support.

Changes: None.

Comments: Commenters noted a few areas that were not addressed in the NPP. Nine commenters emphasized a need for an evaluation requirement. Four commenters suggested that the Department encourage piloting or iteration of projects. Four other commenters noted the need for teacher input on project designs. Three commenters expressed concerns about equitable access to the program and the need for an outreach plan to ensure that teachers are aware of the opportunity.

Discussion: The EIR statute includes a requirement for an independent evaluation; as such, it was not necessary to include an evaluation requirement in the proposed priorities, but it is included in EIR notices inviting applications (NIAs). Regarding iterative development of project ideas, EIR already allows for a planning period and specifically encourages continuous improvements in project design and implementation before conducting full-scale implementation and an evaluation of effectiveness.

Additionally, the Department may, in EIR competitions that use these final priorities, include selection criteria from the Education Department General Administrative Regulations related to continuous improvement and periodic assessment of progress. The Department appreciates the suggestion for honoring teacher voice and agency by recommending ways that

teachers could have input on proposed projects conducted under these priorities; such input is likely to help make systems more relevant and user friendly for teachers.

Regarding outreach plans, the Department already included in the NPP a requirement that applicants describe their planned outreach (application requirement (b)) and has maintained that requirement.

Changes: The Department has added new requirements (b) (3) and (b) (4) that provide that applicants must include a summary of the ways in which teachers were involved in the grant application and the ways teachers will be involved in key decisions about the proposed project.

Priority 2—State Educational Agency Partnership

Comments: Fourteen commenters supported a priority for State Educational Agency (SEA) partnerships, including comments such as the necessity of involving SEAs in projects that include teacher-directed professional learning in order to coordinate such learning with certification requirements. Two commenters stated that the SEA role was not necessary for project success due to local control in their State; in these settings there are not statewide professional development requirements, and there is State-mandated district control over professional development.

Discussion: The Department appreciates the comments regarding SEA partnerships and will use these comments to consider including this as a competitive preference priority for any year in which this program is in effect. Regardless of how this priority is used to incentivize SEA partnerships in future competitions, an applicant retains the discretion of deciding whether or not to enter into a partnership with an SEA consistent with the program's eligibility requirements.

Changes: None.

Priority 3—Local Educational Agency Partnership

Comments: Eighteen commenters stated that the local educational agency (LEA) role is critical to teacher-directed professional learning projects. Commenters noted that teachers are employees of the LEA. Other commenters explained that an advantage of such a priority would be that district leaders would "be able to design the project based on district goals and priorities. Similarly, there were comments about how, through this priority, the LEA would have an opportunity to effect systemic change in that district leaders could create the flexibilities and conditions to support such a project. One commenter stated that an LEA partnership is not necessary if the SEA is engaged.

Discussion: The Department appreciates the comments regarding LEA partnerships and will use these comments to consider including this as a competitive preference priority for any year in which this program is in effect. Regardless of how this priority is used to incentivize LEA partnerships in future competitions, an applicant retains the discretion of deciding whether or not to enter into a partnership with an LEA consistent with the program's eligibility requirements.

Changes: None.

Requirement (a)–Pool of Eligible Teachers

Comments: Two commenters suggested expanded eligibility beyond teachers to include specialized instructional support personnel and school leaders. Another commenter suggested that stipends be paid directly from the Department to teachers.

Discussion: The Department understands that specialized instructional support personnel and school leaders play important roles in schools. However, the Department is interested in exploring this potentially promising idea of teacher-directed professional learning and, pending the successes of such program, will explore opportunities to expand the program to a broader set of school-based professionals.

The Department is required to award grants to eligible entities in a manner consistent with its authorizing statute and thus cannot award funds, such as stipends, directly to teachers.

Changes: None.

Requirement (c) (3)–Mechanisms to Protect Against Fraud, Waste, and Abuse

Comments: Three commenters expressed general concerns about the waste or misuse of stipends, but those comments did not specifically mention application requirement (c) (3).

Discussion: Under application requirement (c) (3), applicants must describe mechanisms to protect against fraud, waste, and abuse (e.g., monitoring systems, reviews for conflicts of interest). The Department believes this requirement, in addition to general requirements for grantees to have fiscal management controls, is sufficient to ensure grantees monitor the usage of funds and guard against misuse.

Changes: None.

Requirement (d) (1)–Replacing No Less Than a Majority

Comments: Proposed application requirement (d) (1) specified how an applicant will be expected to update its policies to offer stipends to teachers such that no less

than a majority of existing mandatory professional development would be replaced by teacher-directed professional learning. Three commenters supported allowing teachers to replace a majority of mandatory professional development with teacher-directed professional development, stating that it will allow teachers to fulfill certification requirements while recognizing that there is limited available time for additional professional development. One commenter stated that, because their State requirements are limited, it would not be an issue to replace at least a majority of required professional development with teacher-directed professional development.

Thirty-six commenters opposed the requirement to replace no less than a majority of required professional development. One primary reason for this concern was the need for States and local leaders to systematically prioritize professional learning based on educational plans and organizational needs such as data trends that reflect a need for more training in a particular area. For example, a few commenters described that there are many required "non-content" trainings (e.g., child abuse, bloodborne pathogens) that leave little room for content-based learning. Others noted that the employer (i.e., district) needs to manage their workforce by identifying areas of

skills development. Relatedly, a few commenters shared that teacher input should be at the forefront of professional learning decisions, but it should not be the only voice, as district context is also important. Without a mechanism to sufficiently address district-wide or school-wide needs, professional learning could be disjointed (some teachers having training on a district-wide program and others not), incoherent (teacher-selected learning conflicting with locally determined approach), or incomplete (important topics being ignored) according to some of the commenters who opposed the majority replacement requirement. Two commenters specifically stated that meeting this requirement would require a legislative change (namely, the in-service training and licensing requirements set forth by the State legislature) that would be outside of the authority of an applicant. Additional concerns included that the requirement would undermine existing successful collaborative professional learning programs already in place; in particular, that the districts would be forced to release teachers from a team-based coaching program. Commenters proposed alternative approaches, including allowing a smaller portion of professional development to be teacher-directed (e.g., one teacher-selected session per year and the remaining district-

selected) or revising the requirement to limit grantees to replacing no *more* than a majority of the existing mandatory professional development, stating that personalized professional learning is only one aspect of high-quality professional learning.

Discussion: The Department appreciates various comments about the potential challenges in replacing a majority of required professional development. The Department believes there continues to be a need for a systemic change in how teachers engage in professional learning. This change includes discontinuing requirements that result in ineffective or irrelevant professional development and do not serve the learning needs of teachers. The Department appreciates that requiring that teachers be allowed to replace at least a majority of the existing mandatory professional development with teacher-directed professional development may not always be feasible and, in response to the comments raised, is making revisions. We believe that a 20 percent threshold (in place of "majority") supports incremental, but significant change, and this percentage balances the need to move the needle while still keeping it at a level that a majority of eligible applicants will be able to implement.

Many of the Department's established priorities entail

activities that many eligible applicants lack the authority or capacity to do. We recognize that professional development is uniquely tied to rules set by States that most of our eligible applicants will not, if those rules are a barrier, be able to alter. However, the Department has established this priority with the express purpose of altering the way in which teachers engage in professional learning. Each eligible applicant must assess, based on their own unique needs and capabilities, whether to respond to this particular funding opportunity. We note that the EIR NIAs have to date always offered more than two absolute priorities, so applicants that do not feel they are in a position to respond to this priority could consider applying under other priorities.

Changes: The Department has revised language in Proposed Priority 1 and Application Requirement (d)(1) to replace the requirement that teachers be allowed to replace at least a majority of the existing mandatory professional development with teacher-directed professional development with a requirement that teachers be allowed to replace a "significant portion (no less than 20 percent)." The Department also revised the language in Selection Criterion (a), including the addition of Selection Criterion (i) to tease out the separate components within the initial

criterion.

Requirement (g) (2)–Scaling Practices

Comments: One commenter suggested replacing “effective” with “evidence-based” in the requirement for applicants to describe mechanisms for incorporating effective practices discovered through teacher-directed professional learning into the professional development curriculum for all teachers.

Discussion: The Department agrees that it is important to scale “evidence-based” practices. However, we also intend for this program to allow for innovative professional learning to be tested and, if early indicators show it holds potential promise, then scaling such practices. Applying the rigorous definitions associated with the various evidence tiers could have an unintended consequence of stifling that iterative process.

Changes: None.

Requirement (h)–Assurances

Comments: Regarding the required assurance that an SEA or LEA involved in the project will maintain current fiscal and administrative investments in teacher professional development, one commenter stated that only the State legislature has budget authority, and, as such, the applicant does not have control over whether it can make

the assurance. Related to the assurance that stipends will not be limited to a restrictive set of professional learning choices, one commenter noted that applicants need to maintain an ability to restrict use of the stipend so that funds are used for professional development that is instructionally relevant, high quality, and aligned to the identified needs of high-need students. Two commenters stated that grantees should not limit or restrict choices.

Discussion: The Department continues to believe it is critical that this investment does not result in reductions in teacher professional development spending; if a potential applicant is unable to meet the conditions included in this assurance, they are not required to apply. Like many other programs the Department administers, the grant funds are intended to supplement, and not replace the State's professional development investment. While the Department seeks to ensure that grantees do not impose overly restrictive limits on professional learning, the Department agrees that applicants are also required to ensure stipends are used for professional learning that is instructionally relevant, high quality, and aligned to the identified needs of high-need students. As a result, the Department is adding language to application requirement (h) (3) to make clear that the learning options offered may

not be "overly" restrictive.

Changes: The Department has revised application requirement (h) (3) to clarify that the allowed learning options may not be "overly" restrictive.

Definition—Professional Learning

Comments: Nineteen commenters noted that the definition of the term "professional learning" did not include elements that they saw as helpful (e.g., collaborative, sustained, and data driven) and had been included in other legislation. Thus, they suggested using the definition of "professional development" in section 8101(42) of the ESEA. Eleven commenters emphasized the importance for teachers to engage in professional learning that is collaborative. A few commenters also stated that it is important that professional learning decisions be informed by data. Commenters also expressed an interest in continuing progress in moving away from "one-off" trainings and instead supporting sustained and intensive professional learning.

Discussion: The Department agrees that we should revise the definition of "professional learning" to reinforce core elements of high-quality professional learning. However, the Department does not adopt the suggestion to use the ESEA definition of "professional development" because this

definition includes language about professional development that is not aligned to the focus on teacher agency and voice in professional learning decisions; for example, the ESEA definition references activities that support recruitment efforts and connections to district improvement plans. Instead, the Department has added language to the final definition of "professional learning" to require that the learning be "collaborative," "data-driven," and "part of a sustained and intensive program" to address points raised in the comments.

Changes: We have revised the definition of "professional learning" to require that the learning be "collaborative," "data-driven," and "part of a sustained and intensive program."

Selection Criterion (b)—Ensuring Professional Learning is Instructionally Relevant, High Quality, and Aligned to the Needs of High-need Students

Comments: We received 11 comments related to the quality of the teacher-directed professional learning funded by the stipends. Commenters emphasized that grantees would need to review requests to ensure the teacher-selected use of the stipend was for high-quality professional learning, given an already saturated market of professional development vendors that range in quality. Those

commenters were also concerned that teachers might select professional learning not related to teaching. Another commenter suggested that requested professional learning should not focus on high-need students.

Discussion: The Department agrees that supporting high-quality professional learning is important and, as such, intends to maintain application requirements (f)(2) and (h)(2). Under requirement (f)(2), applicants must describe how teachers' requests meet the "professional learning" definition, which includes requirements of being instructionally relevant. Under requirement (h)(2), applicants must assure that project funds will be used for instructionally relevant learning and not activities such as personal enrichment. We also include selection criterion (b) regarding how applicants plan to ensure that professional learning is instructionally relevant, high quality, and aligned to the identified needs of high-need students. The Department will also maintain a focus on high-need students consistent with EIR's authorizing statute,¹ which includes a focus on high-need students.

Changes: The Department did not make substantive changes to this definition but did make a technical edit to remove

¹ ESEA § 4611(a)(1)(A)

duplicative language in the criterion that is already addressed in the "professional learning" definition.

Selection Criterion (d)–Ease of Process for Teachers

Comments: Three commenters expressed concern about the potential burden on teachers to seek professional learning given the expansive set of options available, potentially making the onus on teachers high and the task of identifying opportunities time consuming.

Discussion: The Department agrees about the importance of minimizing the burden on teachers as reflected in selection criterion (d). Additionally, only eligible teachers who volunteer will participate in the stipend program.

Furthermore, application requirements (d)(3) and (f)(1) outline expectations for applicants to have a menu or list of professional learning options. We have included these requirements as a way to support teacher awareness of available opportunities.

Changes: None.

FINAL PRIORITIES:

This notice contains three final priorities.

Priority 1–Teacher-Directed Professional Learning.

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 a significant portion (no less than 20 percent) 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).

Priority 2--State Educational Agency Partnership.

Under this priority, an applicant 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.

Priority 3--Local Educational Agency Partnership.

Under this priority, an applicant 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 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)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use one or more of these

priorities, we invite applications through a notice in the *Federal Register*.

Final Requirements

This notice contains eight requirements. 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;

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

(3) A summary of the ways in which teachers were involved in developing the proposed project; and

(4) A plan for how to include teachers in key decisions about the stipend system;

(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 or teacher need, 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 a significant portion (no less than 20 percent) 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 a significant portion 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 a significant portion 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); and

(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);

(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 professional learning options selected by a teacher that are not 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--

(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; and

(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 an overly 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.

FINAL DEFINITION:

This notice includes one final definition. 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, collaborative, data-driven, part of a sustained and intensive program, 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.

FINAL SELECTION CRITERIA:

This notice contains eight selection criteria for evaluating an application under this program. We may apply one or more of these selection criteria in any year in which this program is in effect.

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

(b) The adequacy of plans to ensure that stipends are

appropriately used for high-quality professional learning.

(c) The extent to which the proposed project will offer teachers flexibility and autonomy regarding the extent of the choice teachers have in selecting their professional learning.

(d) The likelihood that the procedures and resources for teachers result 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 likelihood that the professional learning supported through the stipends will result in sustained positive changes in teachers' instructional practices.

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

(g) The extent to which the proposed payment structure will enable 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.

(i) The extent to which professional learning funded through the stipend will replace existing mandatory

professional development for participating teachers.

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 final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).

Under Executive Order 13771, for each new rule 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 Fiscal Year 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because the regulatory action is not significant, the requirements of Executive Order 13771 do not apply.

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

- (1) Propose or adopt regulations only upon a reasoned

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

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

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

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

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

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

Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these final priorities, requirements, definition, and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

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

In accordance with these 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.

Summary of Costs and Benefits: The Department believes

that these final priorities, requirements, definition, and selection criteria will not impose significant costs on the entities eligible to apply for EIR. We also believe that the benefits of implementing the final priorities justify any associated costs.

The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. Entities selected for awards under section 4611 of the ESEA will be able to pay the costs associated with implementing projects related to teacher-directed professional learning experiences with grant funds. Thus, the costs of these final priorities, requirements, definition, and selection criteria will not be a significant burden for any eligible applicant.

Priority 1 gives 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 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 pay for the professional learning. 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.

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 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 these final priorities 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 priority.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this 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 final priorities, requirements, definition, and selection criteria will be limited to paperwork burden related to preparing an application and that the benefits of implementing these final priorities will outweigh any costs incurred by the applicant.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the availability of teacher-selected professional learning. Therefore, we do not believe that

the final priorities, requirements, definition, and selection criteria will significantly impact entities beyond the potential for receiving additional support should the entity receive a competitive grant from the Department.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

The final program priorities, requirements, definition, and selection criteria contain information collection requirements (ICR) for the program application package. As a result of the revisions to these sections, we are submitting the grant application package with OMB control number 1855-0021 for a reinstatement with change.

In Table 1 below, we assume 50 applicants each spend 30 hours preparing their applications.

TABLE 1—EIR GRANTS PROGRAM INFORMATION COLLECTION STATUS

OMB control No.	Expiration	Current Burden (total hours)	Proposed Burden (total hours)	Proposed Action Under Final Rule
1855-0021	July 31, 2023	1,500	1,500	Reinstatement with change of 1855-0021

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

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

Electronic Access to This Document: The official version

of this document is the document published in the *Federal Register*. 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 this 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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