

(1) The SEA determines has spent a significant portion of its 20 percent obligation for other activities under paragraph (d)(2)(iii)(B) of this section; and

(2) Has been the subject of multiple complaints, supported by credible evidence, regarding implementation of the public school choice or supplemental educational services requirements; and

(B) The SEA must complete its review by the beginning of the next school year.

(4)(i) If an SEA determines under paragraph (d)(3) of this section that an LEA has failed to meet any of the criteria in paragraph (d)(2)(i) of this section, the LEA must—

(A) Spend an amount equal to the remainder specified in paragraph (d)(2)(iii)(B) of this section in the subsequent school year, in addition to its 20 percent obligation for that year, on choice-related transportation costs, supplemental educational services, or parent outreach and assistance; or

(B) Meet the criteria in paragraph (d)(2)(i) of this section and obtain permission from the SEA before spending less in that subsequent school year than the amount required by paragraph (d)(4)(i)(A) of this section.

(ii) The SEA may not grant permission to the LEA under paragraph (d)(4)(i)(B) of this section unless the SEA has confirmed the LEA's compliance with paragraph (d)(2)(i) of this section for that subsequent school year.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316)

[67 FR 71725, Dec. 2, 2002, as amended at 73 FR 64512, Oct. 29, 2008; 73 FR 78637, Dec. 23, 2008]

§ 200.49 SEA responsibilities for school improvement, corrective action, and restructuring.

(a) *Transition requirements for public school choice and supplemental educational services.* (1) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement or subject to corrective action on January 7, 2002, the SEA must ensure that the LEA for that school provides public school choice in accordance with § 200.44 not later than the first day of the 2002-2003 school year.

(2) Except as described in §§ 200.32(d) and 200.33(c), if a school was in school improvement status for two or more consecutive school years or subject to corrective action on January 7, 2002, the SEA must ensure that the LEA for that school makes available supplemental educational services in accordance with § 200.45 not later than the first day of the 2002-2003 school year.

(b) *State reservation of funds for school improvement.* (1) In accordance with § 200.100(a), an SEA must reserve 2 percent of the amount it receives under this part for fiscal years 2002 and 2003, and 4 percent of the amount it receives under this part for fiscal years 2004 through 2007, to—

(i) Support local school improvement activities;

(ii) Provide technical assistance to schools identified for improvement, corrective action, or restructuring; and

(iii) Provide technical assistance to LEAs that the SEA has identified for improvement or corrective action in accordance with § 200.50.

(2) Of the amount it reserves under paragraph (b)(1) of this section, the SEA must—

(i) Allocate not less than 95 percent directly to LEAs serving schools identified for improvement, corrective action, and restructuring to support improvement activities; or

(ii) With the approval of the LEA, directly provide for these improvement activities or arrange to provide them through such entities as school support teams or educational service agencies.

(3) In providing assistance to LEAs under paragraph (b)(2) of this section, the SEA must give priority to LEAs that—

(i) Serve the lowest-achieving schools;

(ii) Demonstrate the greatest need for this assistance; and

(iii) Demonstrate the strongest commitment to ensuring that this assistance will be used to enable the lowest-achieving schools to meet the progress goals in the school improvement plans under § 200.41.

(c) *Technical assistance.* The SEA must make technical assistance available, through the statewide system of support and improvement required by section 1117 of the ESEA, to schools

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that LEAs have identified for improvement, corrective action, or restructuring.

(d) *LEA failure.* If the SEA determines that an LEA has failed to carry out its responsibilities with respect to school improvement, corrective action, or restructuring, the SEA must take the actions it determines to be appropriate and in compliance with State law.

(e) *Assessment results.* (1) The SEA must ensure that the results of academic assessments administered as part of the State assessment system in a given school year are available to LEAs before the beginning of the next school year and in such time as to allow for the identification described in § 200.32(a)(2).

(2) The SEA must provide the results described in paragraph (e)(1) of this section to a school before an LEA may identify the school for school improvement under § 200.32, corrective action under § 200.33, or restructuring under § 200.34.

(f) *Accountability for charter schools.* The accountability provisions under section 1116 of the ESEA must be overseen for charter schools in accordance with State charter school law.

(g) *Factors affecting student achievement.* The SEA must notify the Secretary of Education of major factors that have been brought to the SEA's attention under section 1111(b)(9) of the ESEA that have significantly affected student academic achievement in schools and LEAs identified for improvement within the State.

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(Authority: 20 U.S.C. 6311 and 6316)

[67 FR 71725, Dec. 2, 2002]

§ 200.50 SEA review of LEA progress.

(a) *State review.* (1) An SEA must annually review the progress of each LEA in its State that receives funds under subpart A of this part to determine whether—

(i) The LEA's schools served under this part are making AYP, as defined under §§ 200.13 through 200.20, toward meeting the State's student academic achievement standards; and

(ii) The LEA is carrying out its responsibilities under this part with respect to school improvement, technical assistance, parental involvement, and professional development.

(2) In reviewing the progress of an LEA, the SEA may, in the case of targeted assistance schools served by the LEA, consider the progress only of the students served or eligible for services under this subpart, provided the students selected for services in such schools are those with the greatest need for special assistance, consistent with the requirements of section 1115 of the ESEA.

(b) *Rewards.* If an LEA has exceeded AYP as defined under §§ 200.13 through 200.20 for two consecutive years, the SEA may—

(1) Reserve funds in accordance with § 200.100(c); and

(2) Make rewards of the kinds described under section 1117 of the ESEA.

(c) *Opportunity for review of LEA-level data.* (1) Before identifying an LEA for improvement or corrective action, the SEA must provide the LEA with an opportunity to review the data, including academic assessment data, on which the SEA has based the proposed identification.

(2)(i) If the LEA believes that the proposed identification is in error for statistical or other substantive reasons, the LEA may provide supporting evidence to the SEA.

(ii) The SEA must consider the evidence before making a final determination not later than 30 days after it has provided the LEA with the opportunity to review the data under paragraph (c)(1) of this section.

(d) *Identification for improvement.* (1)(i) The SEA must identify for improvement an LEA that, for two consecutive years, including the period immediately before January 8, 2002, fails to make AYP as defined in the SEA's plan under section 1111(b)(2) of the ESEA.

(ii) In identifying LEAs for improvement, an SEA—

(A) May base identification on whether an LEA did not make AYP because it did not meet the annual measurable objectives for the same subject or meet the same other academic indicator for two consecutive years; but