

# **Accountability Under Title I, Part A of the ESEA**

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## **Frequently Asked Questions**



**January 2017**

## Purpose of the Guidance

This guidance is intended to help States, local educational agencies (LEAs), and other stakeholders understand the statutory and regulatory requirements for statewide accountability systems under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). It is not intended to serve as the only source of guidance to a State regarding how to complete the portion of its State plan that addresses State accountability systems. The Department has published separate State Plan Peer Review Guidance (“*Every Student Succeeds Act Consolidated State Plan Guidance*”) that provides additional information about how a State should complete that portion of its State plan, either through a consolidated State plan, consistent with 34 C.F.R. §§ 299.13 and 299.17, or individual program plan under Title I, Part A of the ESEA, that describes its statewide accountability system.<sup>1</sup> The [peer review guidance](#) should be read in conjunction with this guidance.

The U.S. Department of Education (Department) has determined that this guidance is significant guidance under the Office of Management and Budget’s Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). See [www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf](http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf). Significant guidance is non-binding and does not create or impose new legal requirements. The Department is issuing this guidance to provide States and LEAs with information to assist them in meeting their obligations under the ESEA and implementing regulations (see 34 C.F.R. §§ 200.12-200.24) that it enforces.

Once States have completed the transition to implementing accountability systems under the ESEA, as amended by the ESSA (after the 2017–2018 school year), this guidance will supersede all of the Department’s existing significant guidance regarding statewide accountability systems, school and LEA identification, and school and LEA interventions under sections 1111 and 1116 of the ESEA, as amended by the No Child Left Behind Act of 2001.

If you are interested in commenting on this guidance, please email us your comment at [OESE.Guidance@ed.gov](mailto:OESE.Guidance@ed.gov) or write to us at the following address:

U.S. Department of Education  
Office of Elementary and Secondary Education  
Office of State Support  
400 Maryland Avenue, SW  
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For further information about the Department’s guidance processes, please visit [www2.ed.gov/policy/gen/guid/significant-guidance.html](http://www2.ed.gov/policy/gen/guid/significant-guidance.html).

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<sup>1</sup>Throughout this guidance, unless otherwise indicated, the term “State plan” refers to either a consolidated State plan under ESEA section 8302, consistent with 34 C.F.R. §§ 299.13 and 299.17, or individual Title I program plan under ESEA section 1111.

## INTRODUCTION

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On December 10, 2015, President Obama signed into law the bipartisan Every Student Succeeds Act (ESSA), which reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA). The ESSA builds upon the critical work that has been done by State educational agencies (SEAs) and local educational agencies (LEAs) over the last few years. The reauthorized law sets high standards for students and educators, and includes requirements that will help prepare all students for success in college and future careers. The ESSA prioritizes excellence and equity for all students, and recognizes the importance of supporting great educators in our nation’s schools.

In order to support SEAs, LEAs, and schools in their implementation of the ESEA, as amended by the ESSA, on November 29, 2016, the Department issued [Final Regulations](#) regarding the requirements for accountability systems and interventions under section 1111 of the ESEA, as well as the requirements for providing funds to support interventions under section 1003 of the ESEA (81 FR 86076, 86076-86248).<sup>2</sup> In addition, ESEA section 1111(c) and 34 C.F.R. § 200.12(a)(1) require that each State plan describe a single statewide accountability system to improve student academic achievement and school success. For purposes of this guidance, the term “State plan” refers to either a State’s individual Title I program plan under ESEA section 1111 or its consolidated State plan under ESEA section 8302 and consistent with 34 C.F.R. §§ 299.13 and 299.17, as applicable. The Department strongly recommends that States design processes that allow stakeholders the opportunity to provide meaningful feedback throughout the development and implementation of State plans and policies under the ESEA (see the Department’s [Dear Colleague Letter on stakeholder engagement](#)). The Department offers this guidance to provide further clarity regarding the statutory and regulatory requirements. In addition to these FAQs, we encourage States to review our [Resource Guide: Accountability for English Learners under the ESEA](#), which provides greater detail on provisions in the statute and regulations pertaining to English learner (EL) accountability, along with the other non-regulatory guidance documents offered on the [Office of Elementary and Secondary Education’s ESSA Resources page](#).

Please note that this guidance is available in electronic form on the Department’s Web site at: <http://www2.ed.gov/programs/titleiparta/eseatitleiaccountabilityfaqs.docx>.

## A. SINGLE STATEWIDE ACCOUNTABILITY SYSTEM

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### A-1. Which schools must be included within a State’s accountability system?

A State’s statewide accountability system must include all public elementary and secondary schools, including all public charter schools, consistent with State charter laws. (ESEA section 1111(c)(4)(C); 34 C.F.R. § 200.12(a)(1))

### A-2. Which subgroups of students must a State include in its accountability system?

In establishing long-term goals and measurements of interim progress (MIPs), measuring performance on each accountability indicator, annually meaningfully differentiating schools, and identifying schools for support and improvement, a State must include the following categories of students:

- All public school students; and
- Each of the following subgroups of students, separately:
  - Economically disadvantaged students;

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<sup>2</sup> Throughout this guidance, unless otherwise indicated, citations to the ESEA refer to the ESEA, as amended by the ESSA.

- Students from each major racial and ethnic group;
- Children with disabilities (as defined in ESEA section 8101(4)); and
- English learners (as defined in ESEA section 8101(20)).

A subgroup of students must be included for the accountability purposes set forth above when the number of students in the subgroup meets the State’s minimum number of students, commonly referred to as the State’s minimum n-size (see Section E). Further, all students enrolled in a public school must be included in the “all public school students” subgroup.

Note that a single student may be a member of multiple subgroups. For example, an EL who is also a child with a disability is a member of both the EL and the children with disabilities subgroups and should be counted in those subgroups’ respective minimum n-size calculations.

(ESEA section 1111(c)(2); 34 C.F.R. § 200.16(a))

**A-3. May a State include in its accountability system subgroups in addition to those listed in question A-2?**

Yes. A State may choose to include subgroups of students in its accountability system in addition to those listed above. The State must describe these additional subgroups in its State plan under ESEA section 1111 and consistent with 34 C.F.R. § 299.17(b)(2). Note, however, that such subgroups are in addition to and do not replace any of the subgroups listed in question A-2. For example, in addition to the required subgroups, a State may include for accountability purposes subgroups included in data reported on State and LEA report cards (*e.g.*, migratory children, homeless children and youth, children in foster care, students with a parent who is a member of the Armed Forces on active duty). As another example, a State may include a subgroup of students based on their performance (*e.g.*, the lowest-performing quartile of students in each school).

When including a subgroup in addition to the required subgroups, a State should consider the impact of including the subgroup within the accountability system; for example, how its inclusion relates to the weighting of indicators to form the summative determination and how its inclusion will interact with the State’s minimum n-size. In considering these factors, a State should try to ensure that any additional subgroups it uses provide information that will help produce clearer, more meaningful accountability determinations rather than obscuring accountability determinations with duplicative information. States should ensure that the use of additional subgroups is meaningfully connected to the goals of the accountability system given the State’s student population and needs.

(ESEA section 1111(c)(2); 34 C.F.R. § 200.16(a), (e))

**A-4. Must public charter schools comply with the requirements of a State’s accountability system?**

Yes. Public charter schools must be included in the State’s accountability system in the same manner, using the same system, as all other public elementary and secondary schools in the State. ESEA section 1111(c)(5) and 34 C.F.R. § 200.12(c)(1) require accountability for charter schools to be overseen in accordance with State charter school law. Typically, a State’s charter school law determines the entity within the State that bears responsibility for implementing the State’s accountability system with respect to public charter schools. This generally means that the charter school authorizer is primarily responsible for holding charter schools accountable under the ESEA unless State law specifies another approach.

Under the ESEA, the State establishes goals and measurements of interim progress, develops and implements the State’s accountability system, and identifies schools for comprehensive support and improvement or targeted support and improvement. Accordingly, a charter school authorizer (or other entity designated under

State law as responsible for charter school accountability) should maintain close contact with the State in order to receive current and accurate information on where charter schools stand within the State’s system.

**A-5. Does meeting the accountability requirements in a school’s charter exempt the school from meeting ESEA accountability requirements?**

No. Meeting the accountability requirements set forth in a school’s charter does not exempt the school from ESEA accountability requirements, nor does meeting the ESEA requirements exempt a school from the performance targets or other accountability provisions in its charter. For example, a public charter school that is identified for comprehensive support and improvement or for targeted support and improvement in accordance with the State’s methodology for identifying such schools under the ESEA must meet all requirements applicable to such schools, even if it has met the accountability requirements in its charter.

**A-6. May a charter authorizer impose more rigorous accountability requirements on a charter school than a State’s accountability system would otherwise require?**

Yes. Consistent with ESEA section 1111(c)(5), if a charter school’s contract with its authorizer imposes more immediate or rigorous consequences than a State’s accountability system would impose, the authorizer should take appropriate steps to ensure that the charter school abides by the charter contract as specified in the State’s charter school law. In addition, 34 C.F.R. § 200.12(c)(2) specifies that if a charter school authorizer, consistent with State charter school law, acts to decline to renew or to revoke the charter of a particular charter school, the decision of the authorizer to do so supersedes any notification from the State that the school must implement a comprehensive or targeted support and improvement plan. A charter school authorizer retains the authority to close a low-performing charter school under the timeframes and according to the performance expectations in its charter contract and under State law, and the identification of a charter school for comprehensive support and improvement or targeted support and improvement should not be used as evidence to delay or avoid closure if the school is failing to meet the terms of its charter.

**A-7. Must a State include all schools — even those in special categories, including alternative schools, small schools, new schools, and schools with no tested grades (e.g., K-2 schools) — in its accountability system?**

Yes. All public schools must be included in a State’s accountability system, including special categories of schools, though a State has some discretion for how alternative schools may be included, as described in questions C-26 and C-27. In this context, “alternative schools” are a category of schools determined by each State and may differ from non-alternative public schools in key characteristics such as target population, setting, services, and structure. They may include newcomer schools (*i.e.*, schools specifically designed to serve foreign-born students who have recently arrived in the United States), schools providing specialized behavioral services, or schools operating outside of traditional school hours, among others. Note that an alternative school is distinct from a public charter school, which must be included in the State accountability system in the same manner as all other public elementary and secondary schools (unless the charter school *also* falls within a special category of schools).

**A-8. When do the provisions regarding accountability systems under Title I of the ESEA, as amended by the ESSA, take effect?**

The requirements for State accountability systems under Title I of the ESEA, as amended by the ESSA, take effect beginning with data collected from the 2017–2018 school year so that schools may be identified for support and improvement no later than the 2018–2019 school year, although States may transition sooner if they have received approval through the State plan process. More detailed information regarding the timeline for implementing specific accountability requirements is set forth in section D of this guidance.

**A-9. Do the new accountability requirements in ESEA section 1111 change a State’s or LEA’s responsibility to comply with civil rights laws?**

No. The receipt of Federal funds, including funds under Title I, Part A of the ESEA, obligates a State and its LEAs to comply with civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability, and age. These laws include Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Age Discrimination Act of 1975. States and LEAs must also comply with Title II of the Americans with Disabilities Act (ADA), which prohibits disability discrimination by State and local entities regardless of whether they receive Federal funds, and the Equal Educational Opportunities Act of 1974 (EEOA), which prohibits denials of equal educational opportunity based on race, color, sex, and national origin, regardless of whether the applicable entity receives Federal funds.

Further, Section 427 of the General Education Provisions Act (20 U.S.C. § 1228a(a)) (Section 427) requires a State to include in its application for Title I funds a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, a State should determine whether these or other barriers may prevent students, teachers, and others from such access to or participation in the Federally funded project or activity. Title I grant recipients that fail to meet their civil rights obligations or to respond to the Section 427 requirement may be subject to civil rights and programmatic enforcement mechanisms, including special conditions on a grant, designation for high-risk status, and withholding funds (subject to notice and hearing requirements).

**A-10. Must a State publicly post a description of its accountability system?**

Each State must describe its accountability system in its consolidated State plan or, if it chooses not to submit a consolidated plan, in its program plan for Title I, Part A of the ESEA (ESEA section 1111(c); 34 C.F.R. § 200.12(a)). As announced in the notice of final regulations, each State must submit a consolidated State plan or its Title I, Part A plan for peer review and Department approval by either April 3, 2017 or September 18, 2017. Each State must publish its approved consolidated State plan or individual program State plan on its Web site in a format and language, to the extent practicable, that the public can access and understand consistent with 34 C.F.R. § 299.13(f). In addition, each State and LEA that receives Title I, Part A funds must prepare and disseminate annual, publicly available State and LEA report cards that include either a description of the State accountability system or a Web address or URL, or a direct link, to such a description on the State’s Web site, which may include a link to the description in the State plan (ESEA section 1111(h)(1)(C)(i); 34 C.F.R. § 200.32(a)-(b)). For additional information, refer to the Department’s non-regulatory guidance “[State and Local Report Cards Under Title I, Part A of the ESEA, as Amended.](#)”

## **B. ACCOUNTABILITY INDICATORS**

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**B-1. What indicators must a State include in its statewide accountability system?**

In its accountability system, each State must annually measure five indicators of student performance:

- (1) Academic Achievement;
- (2) Academic Progress (for elementary and secondary schools that do not award a diploma, as defined by the State);
- (3) Graduation Rate (for high schools that award a diploma, as defined by the State);
- (4) Progress in Achieving English Language Proficiency; and
- (5) School Quality or Student Success (note: a State may include multiple indicators of School Quality or

Student Success).

Although the list above includes five indicators, only four indicators apply to each school, as the Graduation Rate indicator applies only to high schools and the Academic Progress indicator applies only to elementary and middle schools. A summary table of the requirements for accountability indicators can be found below.

### Key Requirements and Flexibilities of Accountability Indicators under the ESEA

| Indicator Requirements and Flexibilities   | Academic Achievement                        | Academic Progress             | Graduation Rate | Progress in Achieving English Language Proficiency | School Quality or Student Success |
|--|---|-------------------------------|-----------------|--|-----------------------------------|
| May use multiple indicators  |   |                               |                 |  | X                                 |
| May use multiple measures <sup>3</sup>   | X   | X                             | X               | X  | X                                 |
| Must use valid, reliable, and comparable measures                                  | X   | X                             | X               | X  | X                                 |
| Must use same measures for all schools statewide                                   | X   | X                             | X               | X  | X                                 |
| Must be disaggregated for all students and each subgroup                           | X   | X                             | X               | ELs only   | X                                 |
| Must be used in all grade spans  | X   | Elementary and Middle Schools | High schools    | X  | X                                 |
| May use measures that differ by grade span   | May include student growth for high schools | X                             |                 |  | X                                 |
| Must use measures supported by research of increased student learning <sup>4</sup> | n/a   | X                             | n/a             | n/a  | X                                 |
| Must use measures that show varied results   | n/a   | X                             | n/a             | n/a  | X                                 |

(ESEA section 1111(c)(4)(B); 34 C.F.R. § 200.14)

#### B-2. What is the difference between the “indicators” and the “measures” that are part of a State’s accountability system?

**Indicators** provide a body of information on a critical aspect of school performance required by the ESEA. The final regulations specify that each State must include at least five indicators in its accountability system: Academic Achievement, Academic Progress, Graduation Rates, Progress in Achieving English Language

<sup>3</sup> See questions B-2, B-4, and B-5 for further information about the difference between indicators and measures, including how multiple measures may be used (*e.g.*, the Progress in Achieving English Language Proficiency indicator may include multiple measures by using the required measure of ELs’ progress on the statewide English language proficiency (ELP) assessment and an additional measure of ELs’ attainment of ELP on the statewide ELP assessment).

<sup>4</sup> Although we expect that all of a State’s indicators would include measures that are related to increased student learning, a State is required to demonstrate in its State plan only that the measures in its Academic Progress and School Quality or Student Success indicators are supported by research that high performance or improvement on each measure is likely to increase student learning (see question B-25).

Proficiency, and one or more indicators of School Quality or Student Success.

**Measures** are the data points used within each indicator to provide individual pieces of information that enable a State to determine whether particular student outcomes have been achieved and whether sufficient progress toward those outcomes has been made. Participation and performance in advanced courses and college enrollment, for example, are measures that may inform a School Quality or Student Success indicator, just as the four-year and extended-year adjusted cohort graduation rate (ACGR) are the measures that may be used in the Graduation Rate indicator. Note that in some cases, a State could choose just one measure to serve as the indicator (*e.g.*, including only the four-year ACGR within the Graduation Rate indicator). Measures may also be based on data from the same instrument, either within or across indicators; student growth on the State’s mathematics assessment is a distinct measure from student proficiency on that assessment.

**B-3. May a State include more than one School Quality or Student Success indicator in its statewide accountability system?**

Yes. A State may include more than one School Quality or Student Success indicator within the statewide accountability system, but may not include more than one of each of the other indicators (*i.e.*, Academic Achievement, Academic Progress, Progress in Achieving English Language Proficiency, and Graduation Rate). All indicators may include multiple measures. The Department encourages States to carefully consider how many of these indicators to include and prioritize among them, balancing the desire to capture multiple aspects of school quality in the indicator(s) with the recognition that too many indicators may dilute focus on other components of school quality or student success that are particularly important in the State.

**B-4. What requirements apply to the measures a State selects to include within its indicators?**

While the ESEA specifies some measures that a State must include (as described below), a State has flexibility to select other measures within the indicators, based on its priorities. Each measure must be **valid** (*i.e.*, provide information on the concept it is intended to assess) and **reliable** (*i.e.*, able to be calculated in a way that produces consistent results over time across different settings and conditions) and provide annual data. Additionally, the measures—with the exception of the Progress in Achieving English Language Proficiency indicator, which only includes ELs—must be able to be disaggregated for all students and each subgroup of students. Further, the State must use the same measures within each indicator for all schools, and each measure must be comparable across all LEAs in the State and calculated in the same way for all schools across the State (except that a State may vary, by grade span, the measures that are used within the indicators of Academic Progress and School Quality or Student Success, as described in question B-5).

(ESEA section 1111(c)(4)(B); 34 C.F.R. § 200.14(a), (c))

For more information about how peers might determine whether a State’s measures meets these requirements, see: “[Every Student Succeeds Act Consolidated State Plan Guidance](#).”

**B-5. Must a State use the same measures within each indicator for all schools?**

Yes. A State must use the same measures within each indicator for all schools on the Academic Achievement, Graduation Rate, and Progress in English Language Proficiency indicators. Within the Academic Progress indicator and the indicator(s) of School Quality or Student Success, a State may vary the measures by grade span. For example, a State could decide to include a common measure (*e.g.*, chronic absenteeism) within the School Quality or Student Success indicator for both schools with grades K-8 and schools with grades 9-12 and also include different grade span-specific measures for schools with grades K-8 (*e.g.*, incidences of school discipline) and for schools with grades 9-12 (*e.g.*, participation and performance in accelerated coursework)—so long as all schools within each grade span are held accountable using the same measures for that indicator.

(ESEA section 1111(c)(4)(B); 34 C.F.R. § 200.14(a)(2), (c)(2))

**B-6. For which subgroups must a State measure the required indicators?**

Each indicator, with the exception of the Progress in Achieving English Language Proficiency indicator, must be able to be disaggregated across all subgroups, consistent with the State’s minimum number of students (commonly referred to as the State’s “minimum n-size”) to promote validity and reliability in making accountability determinations and reporting. Therefore, the indicators must measure performance for all students and separately for each of the following subgroups (see questions A-2, A-3, and section E):

- Economically disadvantaged students;
- Students from each major racial and ethnic group;
- Children with disabilities; and
- English learners.

(ESEA section 1111(c)(4)(B); 34 C.F.R. § 200.14(a)(1), (c)(3))

**B-7. How frequently must a State measure performance on each indicator?**

A State must measure performance on each indicator annually (ESEA section 1111(c)(4)(B); 34 C.F.R. § 200.14(b)). In addition, each State and LEA must report performance on each indicator annually on its report card (ESEA section 1111(h)(1)(C), (h)(2)(C); 34 C.F.R. §§ 200.30-200.31).

**B-8. What does it mean for the Academic Achievement and Graduation Rate indicators to be based on a State’s long-term goals?**

Under ESEA section 1111(c)(4)(B)(i) and (iii), the Academic Achievement and Graduation Rate indicators must be based on the long-term goals and MIPs established in those areas. This means that the long-term goals and MIPs and the related indicators should be aligned and should provide consistent information about school performance to parents and the public. One way to promote alignment is for a State to use the same measures in its long-term goals and MIPs and any related indicators; to that end, if the Graduation Rate indicator includes both the four-year and extended-year ACGR, its long-term goals and MIPs must also include both of those measures.

Moreover, designing the performance levels for each indicator to be consistent with attainment of the related long-term goals and MIPs, as required by 34 C.F.R. § 200.18(a)(2), is another way to ensure the Academic Achievement and Graduation Rate indicators are based on a State’s long-term goals and MIPs (see question C-3) and providing consistent information. This means that a school meeting its long-term goals or MIPs for academic achievement and, if applicable, graduation rates should also be assigned a high level of performance on the related indicator, so that the components of the accountability system are well-aligned. Conversely, a school that is consistently failing to meet its long-term goals and MIPs for Academic Achievement or Graduation Rates should be assigned a low performance level on the relevant indicator.

(ESEA section 1111(c)(4)(B)(i), (iii); 34 C.F.R. § 200.14(b)(1), (3))

**Academic Achievement Indicator**

**B-9. What measures must a State include within the Academic Achievement indicator for all schools?**

In all schools, the Academic Achievement indicator must include, for all students and each subgroup of students, a measure of student performance on the annual statewide reading/language arts and mathematics

assessments required under ESEA section 1111(b)(2)(B)(v)(I) at the proficient level (or above) on the State's grade-level academic achievement standards or, for students with the most significant cognitive disabilities, at the proficient level (or above) on the alternate assessment aligned with alternate academic achievement standards.

(ESEA section 1111(c)(4)(B)(i)(I); 34 C.F.R. § 200.14(b)(1)(i)(A))

Also, when calculating the Academic Achievement indicator, the State must include the performance of at least 95 percent of all students and at least 95 percent of all students in each subgroup (see question B-12 to B-13).

(ESEA section 1111(c)(4)(E)(ii); 34 C.F.R. §§ 200.14(b)(1)(i)(B) and 200.15(b)(1)(iii))

**B-10. May a State give credit, through a performance index, to students who are below or above the proficient level on the statewide assessment in the Academic Achievement indicator?**

Yes. In addition to a measure of students' grade-level proficiency on the annual statewide reading/language arts and mathematics assessments (required under ESEA section 1111(c)(4)(B)(i)(I) and 34 C.F.R. § 200.14(b)(1)(i)(A)), consistent with 34 C.F.R. § 200.14(b)(1)(ii)(A), the Academic Achievement indicator may include measures of students' performance at achievement levels above or below the proficient level—for example, by using an achievement index. However, a State choosing to construct an index or include measures of student performance at levels below or above proficient must do so such that: (1) a school receives less credit for the performance of a student who is not yet proficient than for the performance of a student who has reached or exceeded grade-level proficiency; and (2) the credit a school receives for the performance of a student above the proficient level does not fully compensate for the performance of a student who is not yet proficient. Note that a State using an achievement index would be permitted, but not required, to establish long-term goals and MIPs for each achievement level in the index; long-term goals and MIPs are required only for the percentage of students scoring proficient or above.

For example, a State could construct an index by calculating the percentage of students who are performing at each achievement level (*e.g.*, below basic, basic, proficient, and advanced) and award full credit for each student performing at the proficient or advanced levels in the school, partial credit for each student performing at the basic level, and no credit for students performing below basic. But, if a State sought to award 0.5 points for each student that was at the basic level, 1.0 point for each proficient student, and 1.5 points for each student that at the advanced level, each advanced student would fully compensate for each student scoring at the basic level (those students that are below-proficient), in violation of 34 C.F.R. § 200.14(b)(1)(ii)(A)(2). A State could, however, award 0.5 points for each student that was at the basic level, 1.0 point for each proficient student, and 1.25 points for each student at the advanced level. Similarly, a State could not construct an index that awards 1.0 point for both a student at the basic level and a student at the proficient level, as this would be inconsistent with 34 C.F.R. § 200.14(b)(1)(ii)(A)(1), which requires a school to receive less credit for the performance of a student who is not yet proficient than for the performance of a student who has reached or exceeded proficiency.

Although devising an index for use in the Academic Achievement indicator is permitted, we strongly encourage States to consider including a measure of student growth on assessments, in addition to student academic achievement, in their accountability indicators to better account for the progress students are making at all levels of achievement. For further discussion of this topic, see questions B-14 to B-16, as well as B-21 to B-23 related to the Academic Progress indicator.

**B-11. May a State incorporate a measure of average scale scores within its Academic Achievement indicator?**

No. The use of an average scale score measure is not permitted in the Academic Achievement indicator. While average scale scores are an appropriate measure for many purposes in educational research and evaluation, their use is inconsistent with the statutory and regulatory requirement. The calculation of an average scale score treats scores above the proficient level the same as scores below the proficient level. That is, a school in which the vast majority of students are not yet proficient could have an average scale score that is higher than the proficient level because of a few significantly high-performing outliers. Such an outcome on the Academic Achievement indicator would be inconsistent with the statutory requirement to measure students' proficiency on the State assessments and the regulatory requirement that the performance of a student who scores above the proficient level may not fully compensate for the performance of a student who is not yet proficient.

(ESEA section 1111(c)(4)(B)(i)(I); 34 C.F.R. § 200.14(b)(1)(i)-(ii))

### **B-12. How does participation rate factor into the Academic Achievement indicator?**

ESEA section 1111(c)(4)(E)(ii) requires any measure used within the Academic Achievement indicator to include the performance of at least 95 percent of all students and 95 percent of all students in each subgroup of students (including achievement indices as described in question B-10, and measures of student growth for high schools as described in questions B-14 and B-15).

Specifically, the denominator that must be used in calculating any measure in the Academic Achievement indicator must use the greater of:

- 95 percent of all students, or 95 percent of all students in the applicable subgroup, who were enrolled in the school at the time of testing; or
- The number of all students, or all students in the applicable subgroup, who participated in the assessments.

(ESEA section 1111(c)(4)(E)(ii); 34 C.F.R. §§ 200.14(b)(1)(i)(B) and 200.15(b)(1))

If a State chooses to use an achievement index in its Academic Achievement indicator so that it may include a measure of performance above or below the proficient level, the denominator would still be calculated in the same way, although the points awarded for each level via the index would affect the numerator calculation, and the resulting total number of points the school received in the index.

### **B-13. What denominator must a State use in calculating the participation rate for the Academic Achievement indicator?**

ESEA section 1111(c)(4)(E)(ii) sets special requirements for the denominator that must be used in calculating any measure in the Academic Achievement indicator. A State must use as the denominator the greater of:

- 95 percent of all students, or all students in the applicable subgroup, who were enrolled in the school at the time of testing; or
- The number of all students, or all students in the applicable subgroup, who participated in the assessments.

For example, consider an elementary school with 200 students enrolled in grades 3 through 5. If, during the 2015–2016 school year, 195 students (97.5 percent) took the State mathematics assessment and 100 students scored proficient or above, the denominator used for accountability purposes would be 195. In this example, the participation rate for the all students group would be 97.5 percent, and, because it exceeds 95 percent, the school uses the actual number of students tested as the denominator for the Academic Achievement indicator, resulting in a proficiency rate of 51.3 percent (100/195).

However, if only 175 students in this school participated in the State mathematics assessment, the denominator used for accountability purposes in the Academic Achievement indicator would be 190 students (95 percent of all students enrolled in the school at the time of testing). If 90 students scored proficient or above, the school's proficiency rate for the Academic Achievement indicator would be 47.4 percent (90/190).

(ESEA section 1111(c)(4)(E)(ii); 34 C.F.R. § 200.15(b)(1))

**B-14. May a State include a measure of student growth based on the State's reading/language arts and mathematics assessments for high schools in the Academic Achievement indicator?**

Yes. A State might want to include a measure of student growth in its Academic Achievement indicator for high schools because a student growth measure can reveal and help recognize schools with low achievement levels that are making significant strides to close achievement gaps and, thus, should receive a higher determination in a State's accountability system than schools with low achievement levels that are not closing such gaps. A State is not, however, required to include a measure of student growth in the Academic Achievement indicator for high schools. A State also could include a growth measure within a School Quality or Student Success indicator, or choose not to include any growth measures based on the State assessments in its accountability system for high schools.

(ESEA section 1111(c)(4)(B)(i)(II); 34 C.F.R. § 200.14(b)(1)(ii)(B))

**B-15. If a State chooses to include a measure of student growth as part of the Academic Achievement indicator for high schools, what requirements apply to that measure?**

A State that chooses to include a measure of student growth for high schools within the Academic Achievement indicator must base this measure on the annual statewide reading/language arts and mathematics assessments under ESEA section 1111(b)(2)(B)(v)(I). For example, a State might develop a growth measure using student growth percentiles, or a value-added model, in order to capture how students are progressing as compared to students with similar academic achievement backgrounds or demographic circumstances. We encourage States to consider these measures to determine whether *individual* students are achieving a level of growth that is sufficient to reach or maintain proficiency on the State's challenging academic standards, as opposed to measures that look at progress by comparing cohorts of students (*e.g.*, an increase in the percentage of grade 10 students reaching proficiency from the prior year).

(ESEA section 1111(c)(4)(B)(i)(II); 34 C.F.R. § 200.14(b)(1)(ii)(B))

**B-16. May a State include a measure of student growth based on the State's reading/language arts and mathematics assessments in the Academic Achievement indicator for elementary or secondary schools that are not high schools?**

No. A State may not include a measure of student growth based on the State's reading/language arts and mathematics assessment in the Academic Achievement indicator for elementary or middle schools; however, a State may include growth on such assessments as part of the Academic Progress or School Quality or Student Success indicators for these schools (ESEA section 1111(c)(4)(B)(ii)(I); 34 C.F.R. § 200.14(b)(2)(i)).

**B-17. May a State include other measures within the Academic Achievement indicator, such as achievement on the State's science assessment?**

No. The only measures a State may include within its Academic Achievement indicator in addition to the required measure of student performance on the statewide reading/language arts and mathematics assessments under ESEA section 1111(b)(2)(B)(v)(I) are the two optional measures: (1) an achievement index or similar measure of student performance in reading/language arts and mathematics at multiple academic

achievement levels above or below proficient (see question B-10 and B-11); and (2) measures of student growth in reading/language arts and mathematics for high schools (see questions B-14 and B-15). A State may, however, include other statewide achievement-related measures, such as results on statewide science assessments or student growth for elementary and middle schools, as an Academic Progress or School Quality or Student Success indicator.

(ESEA section 1111(c)(4)(B)(i))

**B-18. How might a State measure performance on the Academic Achievement indicator for a school that does not have tested grades?**

A State has flexibility in determining how it might measure performance on the Academic Achievement indicator for a school that does not have tested grades (see questions C-26 and C-27), but, in general, each State must have a statewide approach for calculating and including performance on this indicator in its accountability system for all such schools. For example, a school that included only grades K-2 could base the Academic Achievement indicator on performance on a statewide early literacy assessment used prior to grade 3. The State could also base the school's performance on the scores of students who previously attended the school (*i.e.*, statewide assessment results for third graders who formerly attended the K-2 school).

(ESEA section 1111(c)(4)(B)(i); 34 C.F.R. § 200.18(d)(1)(iii))

**Academic Progress Indicator**

**B-19. To which schools does the Academic Progress indicator apply?**

The Academic Progress indicator applies to all elementary schools and secondary schools that are not high schools (*e.g.*, middle schools, junior high schools, or other secondary schools that do not include grade 12 and do not grant diplomas, consistent with the definition of high school in ESEA section 8101(28)). The Academic Progress indicator may also be used, at a State's discretion, in schools that meet the statutory definition of a high school but also include elementary and middle grades.

(ESEA section 1111(c)(4)(B)(ii); 34 C.F.R. § 200.14(b)(2))

**B-20. May a State apply an Academic Progress indicator to its high schools (*e.g.*, grades 9-12) if it so chooses?**

No. However, a State may include a measure of student growth on the statewide assessments in reading/language arts and mathematics in high schools within its Academic Achievement indicator or a School Quality or Student Success indicator (see questions B-14 and B-15).

**B-21. Must a State include a measure of student growth based on its statewide reading/language arts and mathematics assessments in the Academic Progress indicator?**

No. In the Academic Progress indicator, a State has the option of including either a measure of student growth based on the State's annual reading/language arts and mathematics assessments, or another academic measure that meets the requirements of 34 C.F.R. § 200.14(c)-(e) described in question B-24. For example, a State could choose to use a measure of student achievement on a statewide assessment in a subject besides reading/language arts and math (*e.g.*, science or social studies), or use a measure that examines whether a school is helping to close achievement gaps between subgroups of students in the State.

(ESEA section 1111(c)(4)(B)(ii)(I); 34 C.F.R. § 200.14(b)(2)(i))

**B-22. A State’s accountability system is required, under 34 C.F.R. § 200.14(b)(2), to use an Academic Progress indicator that must include *either* a measure of student growth *or* another academic measure. May a State include *both* a measure of student growth *and* another academic measure?**

Yes. A State may choose to use (and in the case of Academic Achievement, is required to use) multiple measures within any indicator, including the Academic Progress indicator. In this case, including both student growth and another academic measure (*e.g.*, student performance on the statewide science assessments) would be an example of how a State could incorporate multiple measures within the Academic Progress indicator.

**B-23. If a State chooses to include a measure of student growth in its Academic Progress indicator, what requirements apply to that measure?**

A State that chooses to include a measure of student growth in elementary and/or middle schools within the Academic Progress indicator must base this measure on its annual statewide reading/language arts and mathematics assessments under ESEA section 1111(b)(2)(B)(v)(I). (34 C.F.R. § 200.14(b)(2)(i))

See question B-15 (related to measuring the growth of high school students in the Academic Achievement indicator) for further discussion on measures of student growth.

**B-24. If a State chooses not to include a measure of student growth in its Academic Progress indicator, what requirements apply to the academic measure it does include?**

If a State chooses not to include a measure student growth in its Academic Progress indicator, it must include another academic measure that meets the requirements of ESEA section 1111(c)(4)(B)-(C) and 34 C.F.R. § 200.14(c) through (e). In particular, the academic measure must:

- Be valid, reliable, and comparable across all LEAs in the State;
- Be calculated the same way for all schools across the State, except that it may vary by grade span (*i.e.*, elementary vs. middle schools);
- Be able to be disaggregated for each of the following subgroups of students:
  - Economically disadvantaged students;
  - Students from each major racial and ethnic group;
  - Children with disabilities; and
  - English learners.
- Be supported by research that high performance or improvement on the measure is likely to increase student learning (*e.g.*, academic achievement, student growth, grade point average, credit accumulation, or performance in advanced coursework); and
- Aid in the meaningful differentiation of schools by demonstrating varied results across schools in the State.

**B-25. How can a State determine whether high performance or improvement on a particular measure is likely to increase student learning?**

In their State plans under ESEA section 1111 and consistent with 34 C.F.R. § 299.17(b)(1), States must provide a rationale, supported by research, for why each measure in the Academic Progress indicator is likely to help students succeed and lead to improvements in student learning (*e.g.*, academic achievement, student growth, grade point average, credit accumulation, or performance in advanced coursework), consistent with the statutory goal in ESEA section 1111(c)(4) for the accountability system to improve academic achievement and school success. However, the measures do not need to meet the definition of evidence-based, as defined in ESEA section 8101(21) (see the Department’s non-regulatory guidance, “[Using Evidence to Strengthen Education Investments](#),” regarding the definition of “evidence-based”). Instead, a State’s rationale for why a

particular measure is likely to lead to improvements in student learning should include references to related research which shows a statistically significant, and positive, relationship between the measure and a particular student learning outcome or outcomes. One source where such research can be found is the [What Works Clearinghouse](#) (WWC) which is an initiative of the U.S. Department of Education’s Institute of Education Sciences (IES). (34 C.F.R. § 200.14(d))

**B-26. How can a State determine whether a particular measure aids in the meaningful differentiation of schools?**

In its State plan under ESEA Section 1111 and consistent with 34 C.F.R. § 299.17(b)(1), a State must demonstrate that it is using measures in the Academic Progress indicator that show varied results to support meaningful differentiation of schools consistent with ESEA section 1111(c)(4)(B)(ii) and (C). These measures need to reveal differences in school quality by demonstrating a range in values. A measure that shows no, or little, variation across schools in the State would not provide additional information to help States annually meaningfully differentiate between schools. However, this requirement does not mean that each school must receive a different summative determination or perform differently on each measure. (34 C.F.R. § 200.14(e))

**Graduation Rate Indicator**

**B-27. Must a State include a four-year ACGR in its Graduation Rate indicator?**

Yes. As a part of its statewide accountability system, a State’s Graduation Rate indicator must measure the four-year ACGR. See “[High School Graduation Rate: Non-Regulatory Guidance](#)” for additional information regarding this requirement and calculation of the four-year ACGR.

(ESEA section 1111(c)(4)(B)(iii); 34 C.F.R. § 200.14(b)(3)(i))

**B-28. Must a State include an extended-year ACGR in its Graduation Rate indicator?**

No. Inclusion of an extended-year ACGR is at the State’s discretion. If a State chooses to use an extended-year ACGR as part of its Graduation Rate indicator, however, it must establish long-term goals and MIPs for this measure. (ESEA sections 1111(c)(4)(A)(i)(I)(bb) and 1111(c)(4)(B)(iii); 34 C.F.R. §§ 200.13(b)(2)(ii) and 200.14(b)(3)(ii))

**B-29. May a State include multiple extended-year ACGRs in its Graduation Rate indicator?**

Yes. A State can include one or more extended-year ACGR in addition to the required four-year ACGR in the indicator; for each extended-year ACGR, the State must establish long-term goals and MIPs.

**B-30. May a State include measures beyond the four-year ACGR and, at the State’s discretion, extended-year ACGRs, in its Graduation Rate indicator?**

No. A State may only include graduation rate measures based on an ACGR in its Graduation Rate indicator. Additional measures of high school students’ progress toward graduation or college and career readiness may be included in an indicator of School Quality or Student Success if those measures meet all applicable statutory and regulatory requirements (see questions B-36 to B-42).

(ESEA section 1111(c)(4)(B)(iii); 34 C.F.R. § 200.14(b)(3))

**B-31. How must States provide information to stakeholders regarding the use of the four-year ACGR and extended-year ACGR in its accountability system, and where can additional information on calculating the ACGR be found?**

Consistent with ESEA section 1111 and 34 C.F.R. § 299.17(a) and (b)(1), States must include information in their State plans about their long-term goals and MIPs for graduation rates and a description of how the State has included graduation rates in its indicators. A description of these components of the accountability system must also be provided on annual State and LEA report cards for parents and other stakeholders, consistent with ESEA section 1111(h)(1)(C)(i)(II)-(III) and 34 C.F.R. § 200.32(a)(2)-(3).

Definitions of, and requirements on, how the four-year and extended-year ACGRs must be calculated can be found in ESEA section 8101(23) and (25) and 34 C.F.R. § 200.34. See “[High School Graduation Rate: Non-Regulatory Guidance](#)” for additional information.

### **Progress in Achieving English Language Proficiency Indicator**

#### **B-32. To which schools does the Progress in Achieving English Language Proficiency indicator apply?**

The Progress in Achieving English Language Proficiency indicator applies to any school with an EL subgroup that meets the State’s minimum n-size in, at a minimum, the grades for which it administers its statewide reading/language arts and mathematics assessments (grades 3-8 or, at the high school level, for the grade in which students are assessed on the statewide reading/language arts and mathematics assessment). If a State chooses to average data across grades or years, consistent with 34 C.F.R. § 200.20(a) (see questions C-11 to C-13 for additional information), in determining whether a school meets the statewide minimum n-size, the school’s total population of ELs for the relevant grades and/or years should be summed to determine if it meets the minimum n-size required to include this indicator in current year accountability determinations.

For example, assume a State has a minimum n-size of 20 students and averages data across grades and over three years. If a school in that State has progress data available for eight ELs in the first school year of data used in current accountability determinations, progress data available for 10 ELs in year two, and progress data available for 10 ELs in the current year (year three), it has available data for 28 ELs for the purpose of accountability calculation—more than the State’s minimum n-size—and, consequently, the school would include this indicator in its accountability determinations for the current year.

#### **B-33. How can a State’s Progress in Achieving English Language Proficiency indicator be aligned with the State-determined maximum number of years for an EL to attain ELP?**

A State’s Progress in Achieving English Language Proficiency indicator must be aligned with the applicable timelines, within the State-determined maximum timeline, for each EL to attain ELP based on the State’s uniform procedure for setting long-term goals and MIPs. For example, if a State’s maximum number of years in its uniform procedure used for purposes of establishing student-level targets expects all ELs in the State to attain ELP over no more than five years, the measure the State uses in its Progress in Achieving English language proficiency indicator must similarly expect all ELs to make adequate progress towards attaining ELP over no more than five years.

(ESEA section 1111(c)(4)(B)(iv); 34 C.F.R. § 200.14(b)(4)(ii))

For additional information on how a State might establish its Progress in Achieving English Language Proficiency long-term goals and MIPs (including the State-determined maximum number of years) and the indicator, see “[Resource Guide: Accountability for English Learners under the ESEA](#).”

#### **B-34. Can a State include multiple measures within the Progress in Achieving English Language Proficiency indicator?**

Yes. Each State must include a measure of progress on the statewide ELP assessment, comparing results

from the current school year to results from the previous school year, such as establishing a growth-to-proficiency model based on student growth percentiles. A State may also include a measure of proficiency (e.g., an increase in the percentage of ELs in the school scoring proficient on the ELP assessment compared to the prior year), although this measure would not necessarily be comparing the results of the same students from year to year, but instead, the results of one cohort compared to another. For additional information about how a State might incorporate multiple measures within this indicator, see “[Resource Guide: Accountability for English Learners under the ESEA](#).”

**B-35. In determining a school’s performance on the Progress in Achieving English Language Proficiency indicator, how must a State include the performance of an EL with a disability who is not able to be assessed on all four domains of the ELP assessment because the student’s disability precludes assessment in one or more domains?**

With respect to the small number of ELs with a disability that precludes assessment in one or more domains of the ELP assessment required under ESEA section 1111(b)(2)(G) such that there are no appropriate accommodations for the affected domain(s) (e.g., a non-verbal EL who because of an identified disability cannot take the speaking portion of the assessment), a State must, in measuring performance against the Progress in Achieving English Language Proficiency indicator, include the student’s performance on the ELP assessment based on the remaining domains in which it is possible to assess the student. Note that the applicability of this provision must be determined, on an individualized basis, by the student’s Individualized Education Program (IEP) team under section 614(d)(1)(A)(i)(VI) of the Individuals with Disabilities Education Act (IDEA), a team under Section 504, or the individual or team designated by the LEA to make these decisions under Title II of the ADA. The Department’s “[Resource Guide: Accountability for English Learners under the ESEA](#)” includes additional guidance on how these students may be included in accountability decisions.

(ESEA section 1111(c)(4)(B)(iv); 34 CFR § 200.16(c)(2))

**School Quality or Student Success Indicator**

**B-36. What is an indicator of School Quality or Student Success?**

A State’s accountability system must include at least one indicator of School Quality or Student Success, which can help the State, in evaluating school performance, emphasize and capture additional categories or aspects of student learning that are critical to providing a high-quality, well-rounded education (see question B-42 for examples of these categories). These indicators may measure “academic” factors, such as an indicator of students’ college and career readiness or other measures that contribute to school quality and student success, but do not need to be based on State assessment results. A School Quality or Student Success indicator can also include multiple measures; for instance, a School Quality or Student Success indicator of college and career readiness used in high schools might include: (1) student participation in accelerated or advanced coursework; (2) student performance in accelerated or advanced coursework; (3) student completion of a career pathway; and (4) student postsecondary enrollment.

(ESEA section 1111(c)(4)(B)(v); 34 C.F.R. § 200.14(b)(5))

**B-37. What are the requirements for a School Quality or Student Success indicator?**

Any School Quality or Student Success indicator must meet the requirements of 34 C.F.R. § 200.14(c) through (e), consistent with ESEA section 1111(c)(4)(B)-(C). In particular, the indicator must:

- Be valid, reliable, and comparable across all LEAs in the State;
- Be calculated the same way for all schools across the State, except that it may vary by grade span;
- Be able to be disaggregated for each of the following subgroups of students:

- Economically disadvantaged students;
- Students from each major racial and ethnic group;
- Children with disabilities; and
- English learners.
- Be supported by research that performance or improvement on the measure is likely to increase student learning or, if the indicator is one that is used at the high school level, likely to increase student learning *or* graduation rates, postsecondary enrollment, postsecondary persistence or completion, or career readiness; and
- Aid in the meaningful differentiation of schools by demonstrating varied results across schools in the State.

See questions B-25 and B-26 for additional information on how States can demonstrate that a measure is supported by research that demonstrates a positive impact on student learning and will aid in meaningful differentiation of schools.

**B-38. For which schools must a State apply an indicator of School Quality or Student Success?**

A State must use at least one indicator of School Quality or Student Success for all public schools in the State (ESEA section 1111(c)(4)(B)(v); 34 C.F.R. § 200.14(b)(5)).

As with all aspects of its accountability system, after receiving approval of its accountability system in its State plan consistent with ESEA section 1111 and 34 C.F.R. §§ 299.13 and 299.17, a State may submit an amended request to the Department to update or replace a School Quality or Student Success indicator, or a measure within these indicators, for review and approval.

**B-39. Must a State use the same indicators of School Quality or Student Success for all schools in the State?**

No. A State may use different indicators of School Quality or Student Success for each grade span (*e.g.*, elementary, middle, and high schools), but the State must use the same indicators within each grade span in the State. For example, a State might use an indicator that measures chronic absenteeism for all elementary schools, an indicator that measures students taking Algebra I for all middle schools, and an indicator of participation in and performance on advanced coursework for all high schools.

(ESEA section 1111(c)(4)(B)(v)(I)(bb); 34 C.F.R. § 200.14(a)(2), (b)(5), and (c)(2))

**B-40. Must a State use the same number of indicators of School Quality or Student Success for all schools in the State?**

No. Just as the School Quality or Student Success indicator(s) themselves may vary by grade span, the number of indicators may also vary by grade span. However, a State must use the same indicators (and, therefore, the same number of indicators) for all schools within a grade span. For example, a State might use only chronic absenteeism as an indicator of School Quality or Student Success for elementary schools, but use two indicators of School Quality or Student Success, chronic absenteeism and student completion of Algebra I, for middle schools.

(ESEA section 1111(c)(4)(B)(v)(I)(bb); 34 C.F.R. § 200.14(a)(2), (b)(5), and (c)(2))

**B-41. What School Quality or Student Success indicators must a State include for schools in the State that include multiple grade spans (*e.g.*, K-8 or K-12) if the State varies indicators by grade span?**

For schools that include multiple grade spans, the State has discretion to determine which School Quality and Student Success indicators it will include, if the State varies the School Quality or Student Success indicators by grade span, as long as the State uses the same indicators for all similarly configured schools. A State could set a business rule for deciding which grade span’s indicators it will use, or whether it will use the indicator for each of the relevant grade spans in the school. For example, the State could establish a business rule that it would include the middle school grade span indicator for any school that only includes grades 3-8, but not include the middle school indicators for any school that includes grades K-8.

(ESEA section 1111(c)(4)(B)(v); 34 C.F.R. § 200.18(d)(1)(iii))

**B-42. What indicators of School Quality or Student Success might a State include in its accountability system?**

A State might include indicators of any one or more of the following:

- **Student access to and completion of advanced coursework**, such as measures of advanced mathematics course-taking or performance (*e.g.*, the percentage of middle school students enrolled in Algebra I, or of high school students enrolled in calculus);
- **Postsecondary readiness**, such as college enrollment following high school graduation, postsecondary remediation rates, or the rate college-level courses taken and completed;
- **School climate and safety**, which could be measured by a robust, valid student survey that measures multiple domains (*e.g.*, student engagement, safety, and school environment);
- **Student engagement**, using, for example, chronic absenteeism based on the number of students that miss a significant portion of the school year (*e.g.*, 15 or more school days or 10 percent or more of total school days);
- **Educator engagement**, such as measures of teacher retention or attendance; or
- **Any other indicator** the State chooses that meets the requirements of 34 C.F.R. § 200.14(c)-(d) (*e.g.*, student growth, if not already used in another indicator).

(ESEA section 1111(c)(4)(B)(v))

## C. ANNUAL MEANINGFUL DIFFERENTIATION OF SCHOOLS

**C-1. What requirements must a State’s system of annual meaningful differentiation for all public elementary and secondary schools meet?**

A State’s system of annual meaningful differentiation for all public schools (including public charter schools) must meet several requirements. In particular, each State must establish a system of annual meaningful differentiation that:

- Includes the performance of all students and each subgroup of students in a school on each of the indicators in the State’s accountability system;
- Includes, for each indicator, at least three distinct and discrete levels of school performance (*i.e.*, performance levels);
- Provides information on a school’s level of performance (*e.g.*, through a data dashboard) on each indicator, separately, on LEA report cards;
- Results in a single, summative determination for each school, from among at least three distinct categories—which may include the categories of schools required by the ESEA to be identified for comprehensive support and improvement and schools identified for targeted support and improvement—and meaningfully differentiates between schools based on differing levels of performance on the accountability indicators in a clear and understandable manner, including in the overview section of the LEA’s report card for the school;

- Meets the requirements to annually measure the achievement of at least 95 percent of all students and 95 percent of all students in each subgroup of students on the State’s reading/language arts and mathematics assessments;
- Informs the State’s methodology for identifying schools for comprehensive support and improvement or targeted support and improvement, including differentiation of schools with consistently underperforming subgroups of students; and
- Affords —
  - “Much greater” weight, in the aggregate, to the Academic Achievement, Academic Progress, Graduation Rate, and Progress in Achieving English Language Proficiency indicators than to the indicator(s) of School Quality or Student Success, in the aggregate;
  - “Substantial” weight to each of those indicators (Academic Achievement, Academic Progress, Graduation Rate, and Progress in Achieving English Language Proficiency) individually; and
  - Within each grade span, the same relative weight to each indicator among all schools.

(ESEA section 1111(c)(4)(C); 34 C.F.R. § 200.18(a)-(b))

These requirements are discussed further in the questions that follow.

**C-2. What requirements must a State meet in establishing performance levels that will be used to evaluate schools on each indicator?**

A State must establish “at least three distinct and discrete levels of school performance” on each indicator used in its system of annual meaningful differentiation that must be consistent with attainment of the State’s long-term goals and MIPs, if applicable. The performance levels must also be clear and understandable to the public, as these indicator performance levels will be reported separately on LEA report cards for each school consistent with 34 C.F.R. § 200.32(c)(4). Further, the information on performance levels must also be included on State and LEA report cards as part of the description of the State’s system for annual meaningful differentiation, consistent with ESEA section 1111(h)(1)(C)(i)(IV) and 34 C.F.R. § 200.32(a)(4)(iii).

A performance level takes a school’s raw data on each accountability indicator and places it in context so that it becomes clear whether the school is performing particularly well, or is particularly struggling, on that indicator. To show how the school is doing on each indicator, school performance against the performance levels may be provided through a data dashboard, through an indicator scorecard, or through another approach on each LEA’s report card, so long as it is clear and understandable to the public. The requirement for three “distinct and discrete” levels does not prohibit the use of data dashboards; rather, it requires States to make distinctions between schools based on the data presented in the dashboard so that parents and the public have a better sense of how their local schools are performing. To help achieve this, the performance levels may be informed by relative measures (*i.e.*, performance quartiles or State averages) or absolute measures (*i.e.*, performance against the State-determined long-term goals and MIPs).

Whether informed by relative or absolute measures, each performance level must be circumscribed by clear thresholds that are based on underlying data. As such, reporting continuous measures as the indicator performance levels, without further transforming that data, would not meet the requirement to establish at least three “distinct and discrete” levels of performance for each indicator, as the use of such a measure would be no different than reporting raw data for each indicator and would add no further information on school quality to the accountability system. For example, reporting that a school received 70 out of 100 possible points on an indicator does not provide any context about whether a 70 is a typical score, or whether this is an area in which a school is lagging or exceeding expectations.

A State has discretion to determine the approach it will use to design its performance levels, the number of levels it will establish on each indicator, and the way in which it will provide information on a school’s

performance on each indicator. For example, a State that has developed an A-F school grading system for purposes of meeting the requirement regarding summative determinations may also decide to give grades on each individual indicator to meet the requirement regarding performance levels, while a State that uses a numerical index, with a maximum number of points possible on each indicator, could determine ranges of points on each indicator that would be associated with different performance levels (*e.g.*, a school receiving 25 or more out of 30 possible points on a particular indicator could receive a performance level of “excellent”). Similarly, a State could create a data dashboard that presents the raw data on each indicator within performance bands, designating each band with different colors (*e.g.*, performance levels of red, yellow, or green), or labels like “progress needed,” “on-track,” and “exceeding expectations,” to indicate below-average, typical, or above-average performance on each indicator, and then provide schools with a summative determination of comprehensive support and improvement, targeted support and improvement, or not identified for support and improvement using decision rules based on indicator-level performance.

(ESEA section 1111(c)(4)(C); 34 C.F.R. § 200.18(a)(2)-(3))

**C-3. What does it mean for a State’s levels of school performance to be “consistent with attainment of the long-term goals and measurements of interim progress”?**

Consistent with ESEA sections 1111(c)(4)(B) and (C), the regulations require that a State’s levels of school performance for indicators for which a State must establish long-term goals and MIPs (*i.e.*, Academic Achievement, Graduation Rates, and Progress in Achieving English Language Proficiency) be “consistent with attainment” of the long-term goals and MIPs. This means that a school meeting its long-term goals or MIPs for academic achievement and, if applicable, graduation rates and progress in achieving ELP should also be assigned a high level of performance on the related indicator in the accountability system, so that the components of the accountability system are well-aligned. Conversely, a school that is consistently failing to meet its long-term goals and MIPs for Academic Achievement, Graduation Rates, or Progress in Achieving English Language Proficiency should be assigned a low performance level on the relevant indicator.

(34 C.F.R. § 200.18(a)(2))

A State may establish performance levels that are directly related to the long-term goals and MIPs, such as by assigning a performance level based on whether a school exceeded, met, or failed to meet its long-term goal or MIP or, that takes into account the degree by which it missed or exceeded the MIP. A State may also create performance levels that are aligned with the long-term goals and MIPs by using business rules or other approaches to ensure that the information provided by a school’s performance level on a particular indicator is consistent with the school’s performance against the long-term goal and MIP for that indicator.

**C-4. Must a State assign a level of performance on each indicator to each student subgroup?**

No. Consistent with 34 C.F.R. §§ 200.18(a)(2)-(3) and 200.32(c)(4), a State must assign to each school a performance level on each indicator based on the performance of all students and an LEA must report that performance level on the LEA report card. A State may determine that, in addition to the performance level based on all students, it would also be beneficial for parents and the public to see a school’s performance level based on individual subgroups of students for some, or all, indicators as a means to provide greater contextual information about how subgroups are performing within the particular school, but performance levels for each subgroup on each indicator are not required to be reported on LEA report cards.

**C-5. In providing information on a school’s level of performance on each indicator, must an LEA report card also include information on a school’s performance on each measure that is a part of that indicator or assign a performance level to each measure within the indicator?**

As part of annual meaningful differentiation under ESEA section 1111(c)(4)(C) and consistent with ESEA

section 1111(h)(1)(C)(i), if a State includes more than one measure within any accountability indicator, the LEA report card must include the school's results on each measure, as well as the school's results on the indicator as a whole, including the school's performance level for that indicator (34 C.F.R. § 200.32(c)(4), (5)). Reporting results on individual measures within indicators improves transparency and helps stakeholders understand key information underlying the results on the accountability indicators. A State is not, however, required to assign or report a performance level for each measure within an indicator for a particular school. The performance levels are only required to be calculated at the indicator-level, based on all of the measures within that indicator.

For example, if the Graduation Rate indicator includes both the four-year ACGR and the five-year ACGR, the LEA report card must include a school's results on each of these measures separately (*i.e.*, the four-year rate distinct from the five-year rate), and provide results on the indicator when both graduation rates are considered together, including the performance level for the Graduation Rate indicator overall. Similarly, each LEA report card must include reading/language arts and mathematics achievement results on the State assessments at each achievement level in the State's academic achievement standards for all students and for each subgroup of students in a school, as well as the overall performance level for the Academic Achievement indicator. Although reporting on each measure, in this case, will include the percentage of students at each achievement level (*e.g.*, below basic, basic, proficient, and advanced), reporting on the indicator may be based on just the percentage of students that have reached or exceed the proficient level (see questions B-9 to B-11).

(34 C.F.R. §§ 200.18(a)(3) and 200.32(c)(4), (5))

**C-6. What does it mean for a State's system for annual meaningful differentiation to "inform" the State's methodology for identifying schools for comprehensive support and improvement and for targeted support and improvement, including differentiation of schools with consistently underperforming subgroups?**

States must identify two broad categories of schools for support and improvement: those that require comprehensive support and improvement, and those that require targeted support and improvement. Further, the system of annual meaningful differentiation must differentiate schools with consistently underperforming subgroups of students, as defined by the State, for targeted support and improvement.

All of the components of a State's system of annual meaningful differentiation—including the summative determination for a school as well as the school's performance level on each indicator and its performance against the long-term goals and MIPs—should inform all school identification decisions, meaning that a State's method of school identification should consider all components of the system of annual meaningful differentiation. For instance, the summative determination informs which schools fall into the lowest-performing five percent of schools that are identified for comprehensive support and improvement (see question D-4). A State has flexibility, however, with respect to how it will meet this requirement. For example, a State has discretion to develop a system whereby a school's performance level on each indicator and its performance against long-term goals and MIPs form the basis for the school's summative determination based on a composite index score, which, in turn, determines whether the school is identified for comprehensive or targeted support and improvement, but it is not required to adopt such a system. A State might, instead, choose to establish business rules or some other methodology for school identification that takes into account all components of the State's system of annual meaningful differentiation, identifying patterns of performance on particular indicators that would result in a particular overall determination and identification for support and improvement.

(ESSA sections 1111(c)(4)(C)(iii), 1111 (c)(4)(D)(i), and 1111(d)(2)(A); 34 C.F.R. §§ 200.18(a)(6), (c)(3), and 200.19(a),(b))

**C-7. Is there a cap on the number of performance levels that a State can establish for each indicator, or on the number of categories that a State can establish for the summative determination to be assigned to a school?**

No. Although there is no cap on the number of performance levels or categories a State can establish, a State’s system of annual meaningful differentiation must include at least three “distinct and discrete” levels of performance for schools on each indicator and at least three distinct summative determination categories. But, to ensure that the performance levels and summative determination categories are clear and understandable to the public and meaningfully indicate differences in performance, a State may want to consider limiting the number of categories it uses to designate performance levels and summative determinations. If the levels of performance a State uses for each indicator are difficult to distinguish from one another due to the terminology used or because they represent only minor differences in performance, this would likely be unhelpful and confusing to stakeholders trying to understand differences in school performance, consistent with the requirements for annual meaningful differentiation of schools under ESEA section 1111(c)(4)(C).

In addition, continuous measures would not meet the requirement for the performance levels to be “distinct and discrete,” as described in question C-2.

(34 C.F.R. § 200.18(a)(2)-(4))

**C-8. Can the categories from among which a school is assigned a summative determination be the same as the categories of schools that must be identified for support and improvement?**

Yes. In determining how to provide schools with a single summative determination to describe the school’s overall performance, a State may design a system of meaningful differentiation that results in determinations that reiterate the two school identification categories required by the ESEA. Such a system of annual meaningful differentiation would place schools in one of three categories of schools: schools identified for comprehensive support and improvement, schools identified for targeted support and improvement, and schools that are unidentified. Additional information on requirements for identifying schools for comprehensive or targeted support and improvement can be found in Section D of these FAQs.

A State also retains the flexibility to create and use other designations to describe a school’s performance across all of the accountability indicators in its system of annual meaningful differentiation, such as A-F school grades, numerical scores, accreditation systems, or other school classifications. A State choosing to use one of these approaches would still be required to identify schools for comprehensive and targeted support and improvement, as required under the statute and regulations. We strongly encourage States to consult with, and take into account input from, diverse stakeholders, especially those who will be using the information provided by the accountability system regularly, in designing their systems of annual meaningful differentiation to help ensure that the State’s process for assigning summative determinations is clear and understandable, and that the categories impart useful information for parents, educators, and other stakeholders.

(ESEA section 1111(c)(4)(C)-(D) and 1111(d)(2); 34 C.F.R. § 200.18(a)(4))

**C-9. If a State uses the categories of schools that must be identified for support and improvement as its summative determinations for purposes of annual meaningful differentiation, must it also identify schools for support and improvement annually?**

Yes. A State may choose to use the categories of identified schools (*i.e.*, comprehensive support and improvement, targeted support and improvement, and not identified for support and improvement) as its categories for providing a summative determination to each school within its system of annual meaningful

differentiation. Although some categories of schools must be identified to implement support and improvement plans only once every three years (*i.e.*, the lowest-performing five percent of Title I schools, high schools with low graduation rates, and schools with chronically low-performing subgroups in comprehensive support and improvement; and schools with low-performing subgroups of students in targeted support and improvement), a State that chooses to use these categories for its summative determinations must still meet the requirement for annual meaningful differentiation. A State might do this by, for example, carrying over the summative determinations from the previous year into school years in which the State is not identifying new schools to implement support and improvement plans.

However, carrying over a determination from a prior year may not be fully reflective of a school's current performance, including significant progress it might have made since the last time the State identified schools to implement support and improvement plans. Accordingly, we strongly encourage each State to consider providing summative determinations in years in which the State is not identifying schools for support and improvement that indicate whether a school is improving and may be likely to exit status in the future (*e.g.*, comprehensive support and improvement: making progress), or falling behind and on-track to be newly identified in the next school year in which the State identifies schools to implement support and improvement plans (*e.g.*, not identified for comprehensive or targeted support: warning, needs improvement). In this way, the information provided by the school's summative determination continues to reflect the school's current overall performance, even if the State is not identifying a new cohort of schools to implement support and improvement plans that year.

(ESEA section 1111(c)(4)(C)-(D); 34 C.F.R. §§ 200.18(a)(4) and 200.19(d))

**C-10. What does it mean for a school's summative determination to meaningfully differentiate between schools based on differing levels of performance on the indicators?**

Each State, in consultation with stakeholders and based on its unique context and priorities, will design its own system for annual meaningful differentiation. The categories of schools a State develops must be distinct and represent meaningful differences between schools, so that it is clear which schools are excelling and which are struggling, but there are numerous ways that a State can meet these requirements. For example, a State could:

- Sort schools into categories by the number of indicators on which each school performs at a particular performance level, or based on patterns of performance across indicators (*i.e.*, by using clear decision rules);
- Assign performance levels based on the number of points a school receives on each indicator, and then provide the school with an A-F grade or star rating as its summative determination based on the number of points the school receives overall, adding the number of points on each indicator into a total score; or
- Develop a multi-dimensional matrix, with the performance levels on the accountability indicators represented within each dimension and schools assigned an overall performance category (*i.e.*, summative determination) on the basis of particular combinations of performance levels on indicators across each dimension.

These are only a few possible approaches; other methodologies to provide a summative determination for each school that results in meaningful differentiation based on differing performance levels on the accountability indicators may be proposed by States in their State plans under ESEA section 1111 and consistent with 34 C.F.R. § 299.17(b)(5). However, any method must result in a single summative determination for each school, from among at least three distinct categories, that describes a school's overall performance in a clear and understandable manner, including on its LEA's report card.

(ESEA section 1111(c)(4)(C)-(D); 34 C.F.R. § 200.18(a)(4))

**C-11. May a State average data for purposes of meeting the requirements for annual meaningful differentiation and identification of schools?**

Yes. A State may average school-level data in the accountability system by combining data across school years or across grades in a school for certain purposes:

- Calculating the indicators used for annual meaningful differentiation of schools;
- Factoring assessment participation rates into the system of annual meaningful differentiation and determining when action is needed in a school (based on whether it assessed at least 95 percent of all students and each subgroup of students); and
- Identifying high schools with low graduation rates at least once every three years for comprehensive support and improvement.

(34 C.F.R. § 200.20(a))

A State has the discretion to combine data across school years, across grades in a school, or both. Averaging data in this way may both increase the reliability of the data and enable the State to include a greater number of students overall and students in each subgroup in school accountability determinations, as described in question C-13.

**C-12. May a State average or combine participation rate data across grades or school years?**

A State may average or combine participation rate data across grades or schools years only for the limited purpose of factoring into its system of annual meaningful differentiation the requirement for 95 percent participation, but not for any other purpose. A State may not average or combine participation rate data across grades or school years for the purpose of calculating the denominator of the Academic Achievement indicator, as discussed in questions B-12 and B-13, or for the purpose of determining whether a school must develop and implement an improvement plan.

(34 C.F.R. § 200.20(a))

**C-13. What does it mean to “combine” data?**

“Combining” data across grades or across school years, as permitted under 34 C.F.R. § 200.20(a)(1) and (a)(2), means to add the total number of students in a given subgroup from the current school year and the previous one or two school years, or to add the number of students in a given subgroup across each grade in a school in a given year, to produce an averaged result. Note that a State may choose to combine all grades in a school into a single measure, or may choose to combine only certain grades together, for example, creating a K-2 measure and a grade 3-5 measure that will be part of a given indicator. A State may also choose to combine data for some, or all, indicators.

For example, a State using chronic absenteeism as a School Quality or Student Success indicator and electing to combine data across three school years and across all grades in a school would add the number of students in a school that missed 15 days or more (consistent with the State’s definition of chronic absenteeism), summed across each of the past three school years, and divide that number by the total number of students in the school, summed across each of the past three years—resulting in an average measure over both school years and grades.

**C-14. To which indicators must a State assign “substantial” weight individually, and “much greater” weight in the aggregate, for purposes of providing a school with a summative determination?**

To annually meaningfully differentiate among all public schools in the State, including providing a summative

determination for each school, a State must afford “substantial” weight to each of the following indicators:

- Academic Achievement;
- Academic Progress;
- Graduation Rate; and
- Progress in Achieving English Language Proficiency.

In addition to the requirement that each of these indicators receive “substantial” weight on its own, together, these indicators must receive, in the aggregate, “much greater” weight than indicators of School Quality or Student Success, in the aggregate, in the State’s system of annual meaningful differentiation. Note that neither the statute nor the regulations establish requirements for the specific weighting of individual measures within the accountability indicators.

(ESEA section 1111(c)(4)(C)(ii); 34 C.F.R. § 200.18(b)(1)-(2))

**C-15. Must each of the indicators that are afforded substantial weight be afforded the same weight within a State’s system of annual meaningful differentiation?**

No. As long as the Academic Achievement, Academic Progress or Graduation Rate, and Progress in Achieving English Language Proficiency indicators, individually, are each afforded “substantial” weight and, in the aggregate, “much greater” weight than the indicator(s) of School Quality or Student Success, a State is not required to give each such indicator the same weight.

(ESEA section 1111(c)(4)(C)(ii); 34 C.F.R. § 200.18(d)(2))

**C-16. Must a State use the same indicator weighting across all public schools in its system of annual meaningful differentiation?**

Yes. A State must use a uniform weighting scheme for all public schools, including public charter schools, and may not permit individual LEAs to use different weighting schemes, or permit different weighting schemes based on certain school characteristics, such as student demographics. However, the relative weighting of indicators in a State’s system of annual meaningful differentiation may vary across grade spans. For example, a State may afford more weight to the Academic Achievement indicator in elementary and middle schools than it does for the Academic Achievement indicator in high schools.

(ESEA section 1111(c)(4)(C); 34 C.F.R. § 200.18(b)(3))

**C-17. May a State vary the weighting of the Progress in Achieving English Language Proficiency indicator based on the percentage or number of English learners in a school?**

No. A State must afford the same relative weight to each indicator among all schools within a particular grade span. A State is not permitted to modify the weight given to the Progress in Achieving English Language Proficiency indicator based on the prevalence of ELs in a given school. In all schools with an EL subgroup that meets the State’s minimum n-size, the Progress in Achieving English Language Proficiency indicator must be afforded the same weight within each grade span.

(ESEA section 1111(c)(4)(C); 34 C.F.R. § 200.18(b)(3)).

**C-18. How does a State meet the requirement regarding the relative weighting of indicators if a school does not meet the State’s minimum n-size for the EL subgroup?**

If a school does not meet the State’s minimum n-size for the EL subgroup, the State must exclude the

Progress in Achieving English Language Proficiency indicator from annual meaningful differentiation for the school and afford the Academic Achievement, Academic Progress or Graduation Rate (depending on the grade span), and School Quality or Student Success indicators the same relative weights in such a school as are afforded to those indicators for a school that meets the minimum n-size for ELs and includes the Progress in Achieving English Language Proficiency indicator. In other words, the relative weighting between the remaining indicators must remain constant. By requiring the same relative emphasis among the remaining indicators, annual meaningful differentiation remains fair and consistent for all schools, regardless of variation in the demographics of a school.

In order to afford the same relative weight to each indicator among all schools within a grade span, a State must ensure that it uses a statewide approach for weighting, with uniform emphasis given to each indicator across all LEAs and all schools in the same grade span with, or without, the Progress in Achieving English Language Proficiency indicator. To help illustrate this requirement, in a State that uses a 0-100 point index to differentiate between schools, the following examples both afford the same relative weight to each indicator, regardless of whether the Progress in Achieving English Language Proficiency indicator is included. Note that in elementary and middle schools, this hypothetical State uses one School Quality or Student Success indicator, but adds a second indicator of School Quality or Student Success in its high school system.

**Example: Affording the Accountability Indicators the Same Relative Weight with and without the Progress in Achieving English Language Proficiency Indicator**

| Indicator  | Elementary and Middle Schools                        |  | High Schools   |  |
|--|--|--|--|--|
|  | Total Indicator Points (school meets n-size for ELs) | Total Indicator Points (school does not meet n-size for ELs) | Total Indicator Points (school meets n-size for ELs) | Total Indicator Points (school does not meet n-size for ELs) |
| Academic Achievement                               | 30   | 37.5   | 40   | 47.06  |
| Academic Progress or Graduation Rate               | 30   | 37.5   | 30   | 35.29  |
| School Quality or Student Success indicator 1      | 20   | 25   | 10   | 11.76  |
| School Quality or Student Success indicator 2      | --   | --   | 5  | 5.88   |
| Progress in Achieving English Language Proficiency | 20   | 0  | 15   | 0  |
| <b>TOTAL POINTS</b>                                | <b>100</b>   | <b>100</b>   | <b>100</b>   | <b>100</b>   |

In the example, in elementary and middle schools, indicators of Academic Achievement and Academic Progress always receive 1.5 times the weight of the School Quality or Student Success indicator; the relative emphasis in the system placed on these indicators is constant whether or not the Progress in Achieving English Language Proficiency indicator can be included for the school. Similarly, the relative weighting of indicators for high schools remains consistent with and without the Progress in Achieving English Language Proficiency indicator. Academic Achievement receives 1.33 times as much weight as Graduation Rate; Academic Achievement receives 2.67 times as much weight as School Quality or Student Success, combined; and Graduation Rate receives twice as much weight as School Quality or Student Success, combined. This is true whether the high school has a large enough EL population to meet the State’s minimum n-size, or not.

**C-19. What are the definitions of “substantial weight” and “much greater weight”?**

Although the terms “substantial” weight and “much greater” weight are not defined in the ESEA or in regulations, each State must demonstrate in its State plan under ESEA section 1111, consistent with 34

C.F.R. § 299.17(b)(5)(ii), how it is meeting the statutory requirements for affording particular indicators “substantial” and “much greater” weight. Specifically, each State must demonstrate that:

- In identifying schools for comprehensive support and improvement, performance on School Quality or Student Success indicator(s) cannot change the status of a school that would otherwise be identified for comprehensive support and improvement without such indicator(s), unless the school has made significant progress in the prior year, as determined by the State, for all students on at least one substantially weighted indicator.
- In identifying schools for targeted support and improvement, performance on School Quality or Student Success indicator(s) cannot change the status of a school that would otherwise be identified for targeted support and improvement without such indicator(s), unless the school has made significant progress in the prior year, as determined by the State, for each consistently underperforming or low-performing subgroup of students on at least one substantially weighted indicator.

(ESEA section 1111(c)(4)(C)(ii); 34 C.F.R. § 200.18(c)(1)-(2))

These demonstrations are distinct from the exit criteria for identified schools, the requirements for which are described 34 C.F.R. §§ 200.21(f) and 200.22(e)-(f), and apply to schools that have already been implementing comprehensive and targeted support and improvement plans. While schools are expected to make progress in order to exit improvement status, the progress referenced in these demonstrations could allow a school to avoid entry into improvement status altogether.

In addition to the specific demonstrations above, each State must also describe in its State plan under ESEA section 1111, and consistent with 34 C.F.R. § 299.17(b)(5)(iv), in general, how the State’s methodology for differentiating and identifying schools, including weighting indicators, ensures that schools with low performance on the substantially weighted indicators are more likely to be identified for comprehensive support and improvement and targeted support and improvement.

(ESEA section 1111(c)(4)(C)-(D); 34 C.F.R. § 200.18(d)(1)(ii))

Taken together, this description and the demonstrations discussed above—which can be applied to any methodology a State employs to identify schools—will provide the Department with information that will enable it to verify that a State has met the statutory requirements for indicator weighting, without stifling the flexibility States have to adopt innovative approaches to differentiate and identify schools for support, including that the flexibility to use categorical labels instead of a numerical index.

**C-20. How might a State demonstrate that performance on its indicator(s) of School Quality or Student Success cannot be used to change the identity of schools that would otherwise be identified for comprehensive support and improvement, unless the school is also making significant progress for all students on at least one of the indicators that is afforded substantial weight?**

In order to demonstrate that the School Quality or Student Success indicator(s) do not change the identity of schools that would otherwise be identified for comprehensive support and improvement, unless such schools are also making significant progress for all students on at least one of the remaining indicators, a State could flag any unidentified school that meets two conditions: (1) the school would have been identified for comprehensive support and improvement if only substantially weighted indicators had been considered; and (2) the school did not show significant progress from the prior year, as determined by the State, on any substantially weighted indicator. If there are no schools in the State that meet both of these conditions, then the demonstration in 34 C.F.R. § 200.18(c)(1) has been met.

In order to flag schools that may meet these conditions, a State could first run its methodology for identifying

the lowest-performing 5 percent of Title I schools in the State. Then, a State could run its methodology again to identify a hypothetical lowest-performing 5 percent of Title I schools in the State, if the State had excluded all School Quality or Student Success indicators. The State would then compare the two lists and analyze schools that appear on the second, hypothetical list of lowest-performing schools, but not on the list of lowest-performing schools that is based on the full methodology in order to confirm that each such school has made significant progress for its “all students” subgroup on at least one of the following indicators: Academic Achievement, Graduation Rate, or Academic Progress.

(ESEA section 1111(c)(4)(C)(ii); 34 C.F.R. § 200.18(c)(1))

**C-21. How might a State demonstrate that performance on its indicators of School Quality or Student Success cannot be used to change the identity of schools that would otherwise be identified for targeted support and improvement, unless the school is also making significant progress, for each consistently underperforming or low-performing subgroup of students, on at least one of the remaining indicators?**

In order to demonstrate that the School Quality or Student Success indicators do not change the identity of schools that would otherwise be identified for targeted support and improvement, unless such schools are also making significant progress for each consistently underperforming or low-performing subgroup of students on at least one of the remaining indicators, a State could follow a similar procedure to that described in question C-20. The State may first run its methodology for identifying both types of schools in targeted support and improvement—those with consistently underperforming subgroups and those with low-performing subgroups—based on all indicators in the system, and then re-run its methodology to compare the results if, instead, identification had been based on all indicators except School Quality or Student Success. The State can then confirm that any school that is identified using the second, hypothetical method, but not the first, is making significant progress for each of its low-performing or consistently underperforming subgroups of students on at least one of the following indicators: Academic Achievement, Graduation Rate, Academic Progress, and Progress in Achieving English Language Proficiency (if applicable).

Note that a subgroup listed in question A-2 may be making significant progress in any of these substantially weighted indicators as part of meeting the demonstration; similarly, if there are multiple subgroups under consideration, those subgroups may be making significant progress in different substantially weighted indicators in order to meet this demonstration.

(ESEA section 1111(c)(4)(C)(ii); 34 C.F.R. § 200.18(c)(2))

**C-22. What should a State do if it determines that performance on indicators of School Quality or Student Success can be used to change the identity of schools that would otherwise be identified for support and improvement, without such schools also making significant progress, as defined by the State, from the prior year?**

If a State determines that its system of annual meaningful differentiation does not meet the two demonstrations required in 34 C.F.R. § 200.18(c)(1) and (2), a State must take steps to meet the statutory and regulatory requirements for indicator weighting. A State has options for the steps it might take to meet the requirements. For example, a State could add a business rule to its methodology for school identification to ensure any school meeting both of the conditions described in question C-20 would be identified for comprehensive support and improvement, with a similar business rule for schools with low-performing or consistently underperforming subgroups that must be identified for targeted support and improvement as described in question C-21. Alternatively, the State could alter its methodology to afford greater weight to the indicators that must be afforded substantial weight. A State may, of course, develop another approach, provided that the methodology results in meeting the statutory and regulatory requirements.

**C-23. Who determines what constitutes “significant progress” for purposes of determining whether a school is making significant progress for all students (or for each consistently underperforming or low-performing subgroup of students) on at least one of the substantially weighted indicators?**

Each State may determine how much progress is sufficient for purposes of meeting the two demonstrations in 34 C.F.R. § 200.18(c)(1) and (2) (see questions C-20 and C-21). A State may determine that the same amount of progress constitutes significant progress for both demonstrations, or may differentiate between the two.

In the case of schools that would otherwise be identified for comprehensive support and improvement (on the basis of the substantially weighted indicators alone) in the current year but are not identified when all indicators are considered, the State must decide whether the school has made significant progress from the prior year, for the all students group, on either the Academic Achievement indicator or the Academic Progress or Graduation Rate indicators, as applicable. Similarly, for schools that would otherwise be identified for targeted support and improvement (on the basis of only the substantially weighted indicators) in the current year and are not identified when all indicators are considered, the State determines if the school has made significant progress from the prior year, for the particular consistently underperforming or low-performing subgroup(s) of students, on the Academic Achievement indicator; the Academic Progress or Graduation Rate indicators, as applicable; or the Progress in Achieving English Language Proficiency indicator, if the EL subgroup is a consistently underperforming or low-performing subgroup in the school.

(ESEA section 1111(c)(4)(C)(ii); 34 C.F.R. § 200.18(c)(1)-(2))

**C-24. How must a State show that its system of annual meaningful differentiation includes differentiation of schools with a consistently underperforming subgroup of students?**

Because the ESEA requires a State’s system of annual meaningful differentiation to include differentiation of schools with consistently underperforming subgroups of students, each State must demonstrate in its State plan under ESEA section 1111, and consistent with 34 C.F.R. § 299.17(b)(5)(iv), that any school with a consistently underperforming subgroup of students, as defined by the State, receives a lower summative determination than it would have otherwise received if it did not have any consistently underperforming subgroups in the school. If a school could receive the same overall determination, regardless of whether a subgroup was consistently underperforming, a State’s accountability system could not reasonably be deemed to meet this statutory requirement.

Each State may determine how to meet this requirement within the context of its particular system of meaningful differentiation. For a State that uses a system of accreditation, for example, to provide summative determinations for all schools, this means that a school’s accreditation status would be lowered due to the presence of a consistently underperforming subgroup of students. Similarly, in a State using an A-F school grading system, a school with a consistently underperforming subgroup would receive a lower grade (*e.g.*, a school that would otherwise receive a B could instead receive a C). States that use the categories of schools required by the statute as their summative determinations categories would meet this demonstration by ensuring that all schools with consistently underperforming subgroups are identified for targeted support and improvement (*i.e.*, moving the school from unidentified into targeted support and improvement status).

(ESEA section 1111(c)(4)(C)(iii); 34 C.F.R. § 200.18(c)(3))

**C-25. When must a State make the demonstrations required by 34 C.F.R. § 200.18(c), and described in questions C-20 to C-21?**

Each State must describe its system for annual meaningful differentiation of all public schools in its Title I or

consolidated State plan, including by providing the weighting of each indicator and how the requisite indicators receive substantial weight individually and much greater weight in the aggregate in a manner that is consistent with the two demonstrations in 34 C.F.R. § 200.18(c)(1) and (2) (see questions C-20 and C-21); and by showing how the State’s system of annual meaningful differentiation and methodology for identifying schools ensures that schools with consistently underperforming subgroups or low performance on substantially weighted indicators are more likely to be identified for comprehensive or targeted support and improvement consistent with 34 C.F.R. § 200.18(c)(3) and (d)(1)(ii) (see questions C-19 and C-24).

As a part of this description, a State would provide data and information to external peer reviewers on how its system of annual meaningful differentiation meets all required demonstrations. States will submit their Title I or consolidated State plans to the Department in either April or September 2017, and States may use data from the most recent school years available or simulated data to aid in these demonstrations.

(ESEA section 1111(c)(4)(C); 34 C.F.R. §§ 200.18(c), (d)(1)(ii) and 299.17(b)(5)(ii), (iv))

**C-26. Must a State use the same methodology to include all public schools in its system of annual meaningful differentiation?**

A State must include all public schools in its statewide accountability system, including for purposes of annual meaningful differentiation and identification for support and improvement. Ideally, a State will apply the same indicators, system of differentiation, and methodology for identifying schools for support and improvement to all public schools. However, in certain circumstances, a State may need to modify the methodology it uses to differentiate among school performance for particular kinds of schools, given their unique contexts, in order to include them at all; these alternative methodologies may, in turn, affect how these schools are identified for comprehensive and targeted support and improvement.

In the case of a State choosing to develop a different methodology to include particular schools in its system of meaningful differentiation, the State must describe in its State plan under ESEA section 1111, and consistent with 34 C.F.R. § 299.17(b)(8), this methodology, including for, as applicable:

- Schools in which no grade level is assessed on the annual statewide assessments in reading/language arts and mathematics (*e.g.*, P-2 schools);
- Schools with variant grade configurations (*e.g.*, schools serving grades 6-12);
- Small schools in which the total number of students who can be included on any of the indicators is less than the State’s minimum n-size, even after combining data across school years or grades (if the State chooses to average data) (see questions C-11 and C-13);
- Schools that are designed to serve special populations of students (*e.g.*, students receiving alternative programming in alternative educational settings; students living in local institutions for neglected or delinquent children, including juvenile justice facilities; students enrolled in State public schools for the deaf or blind; and recently arrived ELs enrolled in public schools for newcomer students); and
- Newly opened schools that do not have multiple years of data available for at least one indicator (*e.g.*, a high school that has not yet graduated its first cohort of students).

In the description of any alternate methodologies in its State plan, a State should provide a statewide definition of each of the relevant categories of schools above, including information about how the State determines if a school fits into one of these categories.

(ESEA section 1111(c)(4)(C); 34 C.F.R. §§ 200.12(a) and 200.18(d)(1)(iii))

**C-27. How might a State include special categories of schools in its system of annual meaningful differentiation?**

If a State takes advantage of the flexibility to develop a different methodology for annual meaningful differentiation of schools with respect to schools in the special categories described in question C-26, it must have clear criteria and a consistent process for annually evaluating the performance of these schools and for ensuring that interventions and supports are provided where needed, which must be described in its State plan under ESEA section 1111, consistent with 34 C.F.R. § 299.17(b)(8), so that all schools are held accountable for similar expectations. In general, a State should only use this flexibility in limited circumstances—namely, when a school’s particular configuration or context makes it impossible to otherwise include the school in the statewide system for annual meaningful differentiation without some modification.

(ESEA section 1111(c)(4)(C); 34 C.F.R. §§ 200.12(a) and 200.18(a), (d)(1)(iii))

For example, a State that uses a numerical index to provide a summative determination for each school might give small schools or schools with no tested grades a determination based on measures in an Academic Achievement indicator that differ from those that determine the summative determination for other schools, because small schools and schools with no tested grades generally do not have State assessment data that can be used to generate summative determinations in the same way as other schools. Similarly, a State that includes in its index a measure of progress over a number of years might exclude that measure in providing a summative determination for a newly opened school. In addition, in the case of high schools serving students who are, based on their age, significantly under-credited to meet the State’s or LEA’s high school graduation requirements, a State may choose to utilize a methodology that weights the extended-year ACGR much more heavily than it does in comprehensive high schools that serve a broader range of students.

The Department encourages each State to review data from its system of annual meaningful differentiation and identification for support and improvement and modify how it includes special categories of schools in its accountability system, as necessary, based on that review in order to ensure that, to the greatest extent possible, the State’s accountability determinations are consistent across all categories of schools.

#### **C-28. How must a State provide information to stakeholders about its system of meaningful differentiation for all public schools?**

Each State must describe its system for annual meaningful differentiation in its Title I or consolidated State plan, and demonstrate how it has met the requirements of 34 C.F.R. § 200.18, including by describing the distinct and discrete performance levels on each indicator and how they are calculated; the weight of each indicator, including how the State meets the demonstrations described in questions C-20, C-21, and C-24; the summative determinations and how they are calculated; and how the system of annual meaningful differentiation and the State’s methodology for identifying schools will ensure schools with low performance on substantially weighted indicators are more likely to be identified for comprehensive and targeted support and improvement. Further, the State plan must describe how the State includes all public schools in its accountability system if it chooses to use a different methodology for certain schools as described in questions C-26 to C-27.

Additionally, each State and LEA report card must include a description of the methodology by which the State differentiates all schools, including the specific weight of each indicator; the way in which the State factors the 95 percent participation in assessments into differentiation; and the performance levels and summative determinations provided to schools by the State.

(ESEA section 1111(c)(1) and (h)(1)(C)(i); 34 C.F.R. §§ 200.32(a)(4) and 299.17(b)(5), (b)(6))

## **D. IDENTIFICATION OF SCHOOLS**

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### **D-1. What schools must be identified by the State for support and improvement?**

States must identify two broad categories of schools for support and improvement: those that require comprehensive support and improvement, and those that require targeted support and improvement. The **category** of comprehensive support and improvement includes **three types** of schools:

- (1) Lowest-performing;
- (2) Low high school graduation rate; and
- (3) Chronically low-performing subgroup.

The **category** of targeted support and improvement includes **two types** of schools — those with a:

- (1) Consistently underperforming subgroup; and
- (2) Low-performing subgroup. These schools must also receive additional targeted support.

(ESEA section 1111(c)(4)(C)(iii), 1111(c)(4)(D)(i), 1111(d)(2)(A)(i), 1111(d)(2)(D), and 1111(d)(3)(A)(i)(II); 34 C.F.R. § 200.19(a), (b))

**Categories and Types of Schools Identified for Support and Improvement under the ESEA**

**Category: Comprehensive Support and Improvement**

| <i>Types of School</i>   | <i>Must include only Title I schools?</i> | <i>Must be identified based on subgroups?</i> | <i>Must be identified with the State’s methodology for producing a school’s summative determination?</i> | <i>Must be identified annually?</i> | <i>First year of identification?</i> |
|--|---|---|--|-------------------------------------|--------------------------------------|
| Lowest-performing school (ESEA section 1111(c)(4)(D)(i)(I); 34 C.F.R. § 200.19(a)(1))  | X   |   | X  |                                     | 2018–2019                            |
| Low high school graduation rate (ESEA section 1111(c)(4)(D)(i)(II); 34 C.F.R. § 200.19(a)(2))                                |   |   |  |                                     | 2018–2019                            |
| Chronically low-performing subgroup (ESEA sections 1111(c)(4)(D)(i)(III) and 1111(d)(3)(A)(i)(II); 34 C.F.R. § 200.19(a)(3)) | X   | X   | X  |                                     | State-determined                     |

**Category: Targeted Support and Improvement**

| <i>Types of School</i>  | <i>Must include only Title I schools?</i> | <i>Must be identified based on subgroups?</i> | <i>Must be identified with the State’s methodology for producing a school’s summative determination?</i> | <i>Must be identified annually?</i> | <i>First year of identification?</i> |
|---|---|---|--|-------------------------------------|--------------------------------------|
| Consistently underperforming subgroup (ESEA section 1111(c)(4)(C)(iii) and 1111(d)(2)(A)(i); 34 C.F.R. § 200.19(b)(1), (c)) |   | X   |  | X                                   | 2019–2020                            |
| Low-performing subgroup (ESEA section 1111(d)(2)(D); 34 C.F.R. § 200.19(b)(2))  |   | X   | X  |                                     | 2018–2019                            |

These categories and types of schools must be identified statewide, using a methodology and timeline that results in a group of identified schools that meets all statutory and regulatory requirements. The identification categories, including the types of schools that fall into each, and the frequency of identification are discussed

further throughout the remainder of Section D. The table above provides a high-level summary of the different categories and types of schools that must be identified.

**D-2. May a State identify additional categories of schools in addition to comprehensive and targeted support and improvement?**

Yes. ESEA section 1111(c)(4)(D)(ii) permits a State to identify additional categories of schools for improvement on top of the required categories of comprehensive and targeted support and improvement (e.g., “reward” schools). However, the statute does not require LEAs or schools in any additional category to develop or implement a support and improvement plan that meets the requirements of ESEA section 1111(d), although a State or LEA could develop its own requirements and procedures regarding school improvement in any schools identified in additional State-determined categories. Further, schools identified in additional categories, including Title I schools, would be ineligible to receive funding for school improvement activities under section 1003, as such funds may be used only to serve schools that meet the statutory and regulatory requirements for identification of comprehensive or targeted support and improvement schools (see question D-16).

**D-3. May a school be identified for both comprehensive and targeted support and improvement?**

No. A State first identifies schools for comprehensive support and improvement, and then, of those schools not already identified, identifies schools for targeted support and improvement. The Department encourages States to consider, for schools identified for comprehensive support that also have one or more consistently underperforming or low-performing subgroups, how the school’s comprehensive support plan might reflect evidence-based interventions to support all low-performing students in the school, including such subgroups.

**D-4. What is a lowest-performing school?**

A lowest-performing school is a school that is among a State’s lowest-performing five percent of Title I-participating schools based on the State’s system of annual meaningful differentiation, consistent with requirement for each school to receive a summative determination. At least once every three years, a State must identify such schools for comprehensive support and improvement, although a State may identify more than five percent of its Title I schools as lowest-performing schools.

(ESEA section 1111(c)(4)(D)(i)(I); 34 C.F.R. § 200.19(a)(1))

**D-5. May a State identify more than five percent of its schools among the lowest-performing schools in the State?**

Yes. A State must identify at least five percent of the Title I-participating schools in the State for comprehensive support and improvement as lowest-performing schools, but may identify more than five percent. If a State’s system of meaningful differentiation and the summative determinations it produces use a methodology that identifies more than five percent of Title I schools as lowest-performing, the State may consider additional criteria to identify a number of schools equal to five percent of Title I-participating schools for comprehensive support and improvement. For example, a State could determine which schools have the lowest performance on the indicators receiving substantial weight that are measured for all students and all subgroups of students: Academic Achievement, Academic Progress, and Graduation Rate. Alternatively, a State may, at its discretion, choose to identify a greater proportion of schools as the lowest-performing schools, such as the lowest-performing ten percent of Title I-participating schools, using its methodology.

**D-6. What is a low high school graduation rate school?**

A low high school graduation rate school is any public high school in the State with a four-year ACGR at or below 67 percent, which may be averaged over school years consistent with the requirements in 34 C.F.R. § 200.20(a) (see question C-11). At least once every three years, a State must identify such schools for comprehensive support and improvement. Note that this group of schools includes all high schools with a low graduation rate, and is not limited to Title I high schools with a low graduation rate. A State may also choose to identify low high school graduation rate schools based on a higher graduation rate threshold. For example, a State may identify for comprehensive support and improvement all high schools with a four-year ACGR at or below 75 percent, averaged over no more than three years.

(ESEA section 1111(b)(2)(D)(i)(II); 34 C.F.R. § 200.19(a)(2))

**D-7. What flexibility does a State have with respect to comprehensive support and improvement in small high schools that are identified based on low graduation rates?**

In the case of a high school that is identified for comprehensive support and improvement based on having a low graduation rate and that has a total school enrollment of less than 100 students, a State may permit the LEA for the school to forgo development or implementation of a school support and improvement plan or implementation of improvement activities that would otherwise be required. The State must still notify the LEA of the small high school's identification as a low graduation rate high school, consistent with 34 C.F.R. § 200.21(a), and the school's identification for comprehensive support and improvement as a low graduation rate high school must still be made public on the LEA report card, consistent with 34 C.F.R. § 200.31(b)(2)(ii)(B). A State should also notify parents of the identification—for more information about how to do so in a way that is accessible and understandable, see questions D-24 to D-30.

Note that small schools that are identified for other reasons must develop and implement comprehensive support and improvement plans as required by the statute and regulations.

(ESEA section 1111(d)(1)(C)(ii); 34 C.F.R. § 200.21(g))

**D-8. What is a chronically low-performing subgroup school?**

A chronically low-performing subgroup school is a Title I-participating school that was originally identified for targeted support and improvement because it had one or more low-performing subgroups of students (defined as a subgroup performing at or below the performance of all students in any lowest-performing school identified for comprehensive support and improvement), but that has not improved, as defined by the State, after implementing a targeted support and improvement plan over a State-determined number of years. Each such school in a State must be identified for comprehensive support and improvement for the year following the year in which the school did not meet the State's exit criteria for schools with low-performing subgroups.

(ESEA sections 1111(c)(4)(D)(i)(III) and 1111(d)(3)(A)(i)(II); 34 C.F.R. § 200.19(a)(3))

**D-9. What is a school with a consistently underperforming subgroup?**

A school with a consistently underperforming subgroup is any public school (including both Title I and non-Title I schools) with one or more consistently underperforming subgroups of students, identified in accordance with the methodology described in 34 C.F.R. § 200.19(c), which must consider each of the individual subgroups a State is required to include in its system of annual meaningful differentiation (see question A-2). In addition, that methodology must:

- Consider each school's performance among each subgroup of students in the school over no more than two years, unless the State demonstrates that a longer timeframe will better support low-performing subgroups of students to make significant progress in achieving the State's long-term

- goals and MIPs in order to close statewide proficiency and graduation rate gaps (see question D-10);
- Be based on all the indicators used for annual meaningful differentiation of schools, consistent with the requirements for weighting of indicators (*i.e.*, requirements for certain indicators to be afforded substantial weight individually and much greater weight, in the aggregate) (see questions D-11 and D-12); and
  - Define a consistently underperforming subgroup of students in a uniform manner across all LEAs in the State (see question D-13), which must include:
    - A subgroup of students that is not meeting at least one of the State’s MIPs or is not on track to meet at least one of the State-designed long-term goals (*e.g.*, a subgroup that has missed its MIPs for academic achievement or graduation rates for two or more years), or is performing below a State-determined threshold on an indicator for which the State is not required to establish long-term goals or MIPs (*e.g.*, a subgroup that has performed poorly on the School Quality or Student Success indicator for two or more years); or
    - Another definition that the State demonstrates in its State plan meets the requirements outlined in (1) and (2) above.

Each school in a State with at least one consistently underperforming subgroup must be identified for targeted support and improvement, consistent with the requirements for inclusion of subgroups in 34 C.F.R. § 200.16 and a State’s minimum n-size in 34 C.F.R. § 200.17 (see section E).

(ESEA section 1111(c)(4)(C)(iii) and 1111(d)(2)(A)(i); 34 C.F.R. § 200.19(b)(1), (c))

**D-10. May a State develop a methodology to identify schools with consistently underperforming subgroups that considers each school’s performance among each subgroup of students in the school over more than two years?**

Yes, but only if the State demonstrates in its State plan under ESEA section 1111, consistent with 34 C.F.R. § 299.17(c)(3), that a methodology considering performance over longer than two years will better support low-performing subgroups of students to make significant progress in achieving the State’s long-term goals and MIPs in order to close statewide proficiency and graduation rate gaps.

Identifying schools with consistently underperforming subgroups based on two years of data is important to ensuring prompt recognition of, and support for, subgroups of students—particularly as schools may have a planning year once they are identified in order to fully develop their improvement plans and evidence-based interventions. A longer timeline has the potential to permit entire cohorts of low-performing students to exit a school before the school is identified and implements a targeted support and improvement plan. However, given the significant flexibility States have in the way they design their accountability systems and the wide variance in accountability system designs that may result from that flexibility, a State may decide to consider the performance of subgroups of students over more than two years for the purpose of identifying this type of school. If it does so, however, to help support students in underperforming subgroups in schools that have not yet been identified for targeted support and improvement and to ensure that the State will meet the requirement in ESEA section 1111(c)(4)(A)(i)(III) to work toward a goal of closing achievement and graduation rate gaps in the State, it must make the required demonstration in its State plan.

(ESEA section 1111(c)(4)(C)(iii) and 1111(d)(2)(A)(i); 34 C.F.R. § 200.19(c)(1))

**D-11. What does it mean for a State’s methodology to identify consistently underperforming subgroups to be “based on all indicators ... used for annual meaningful differentiation”?**

A State’s methodology to identify consistently underperforming subgroups of students must consider each of the accountability indicators used within a grade span (*i.e.*, Academic Achievement, Academic Progress or Graduation Rate, Progress in Achieving English Language Proficiency, and School Quality or Student

Success). However, while each of these indicators must be considered in the methodology, a subgroup need not be underperforming on every indicator in order to meet a State’s definition of a consistently underperforming subgroup. In fact, a State has discretion to define a consistently underperforming subgroup of students based on low performance on a single indicator, low performance on a particularly important measure within an indicator (*e.g.*, low academic achievement in reading/language arts or a low four-year ACGR), or missing the relevant long-term goals or MIPs in one subject. However, a State’s methodology may not completely exclude any of the indicators, even if a State chooses for low performance by a subgroup on a single indicator to trigger identification for targeted support and improvement.

(ESEA section 1111(c)(4)(C)(iii); 34 C.F.R. § 200.19(c)(2))

**D-12. What does it mean for a State’s methodology for identifying schools with consistently underperforming subgroups to be “consistent with the requirements for weighting of indicators”?**

Under ESEA section 1111(c)(4)(C)(ii) and 34 C.F.R. § 200.18(b)(1)-(2), the Academic Achievement, Graduation Rate, Academic Progress, and Progress in Achieving English Language Proficiency indicators must each be afforded “substantial” weight and must be afforded, in the aggregate, “much greater” weight than the indicators of School Quality or Student Success in the system of annual meaningful differentiation. Because schools with consistently underperforming subgroups of students must be identified based on the system of annual meaningful differentiation, consistent with ESEA section 1111(c)(4)(C)(iii) and 34 C.F.R. § 200.19(b), the provisions for weighting indicators within the system of annual meaningful differentiation also apply to a State’s methodology for identifying those subgroups.

For example, a State that uses a system with two School Quality or Student Success indicators could determine that a subgroup would be identified for targeted support and improvement in a school if it met the State’s criteria for consistent underperformance on any substantially weighted indicator (*i.e.*, Academic Achievement, Academic Progress or Graduation Rate; or Progress in Achieving English Language Proficiency) or both of the School Quality or Student Success indicators; however, if a subgroup only met the criteria for a single School Quality or Student Success indicator the subgroup would not be considered consistently underperforming by the State. This would be consistent with the requirement under ESEA section 1111(c)(4)(C)(ii) and 34 C.F.R. § 200.18(b)(1)-(2) that the remaining indicators receive “much greater” weight than the School Quality or Student Success indicators.

**D-13. What are other definitions a State may use to identify a consistently underperforming subgroup?**

A State has significant flexibility to develop a definition of consistently underperforming subgroup, consistent with ESEA section 1111(c)(4)(C)(iii), that meets the applicable regulatory requirements in 34 C.F.R. § 200.19(c)(3)(ii). For example, in addition to considering performance of a subgroup against a State’s MIPs, a State might define consistently underperforming subgroup as:

- A subgroup of students that is performing at the lowest performance level on an indicator in the system of annual meaningful differentiation (*e.g.*, a subgroup that is in the State’s lowest performance level on the Academic Achievement indicator or on the Academic Progress indicator);
- A subgroup of students that is particularly low-performing on a measure within an indicator (*e.g.*, a student subgroup that is particularly low-achieving on the State’s reading/language arts assessment or the mathematics assessment; or a subgroup that has a low four-year ACGR in a State whose Graduation Rate indicator includes both the four-year and extended-year ACGR); or
- A subgroup of students that is performing significantly below the average performance among all students, or the highest-performing subgroup, in the State, such that the performance gap is among the largest in the State. For example, a State could set its threshold so that any school with a subgroup performing at least 10 percentage points below, or more than one standard deviation

below, the statewide average for two or more years on the Academic Achievement indicator would be identified.

These are merely examples of how a State might define consistently underperforming subgroup of students. A State may propose any other definition, provided that it meets the requirements of 34 C.F.R. § 200.19(c)(1)-(2), which are further explained in questions D-9 through D-12.

**D-14. What is a school with a low-performing subgroup?**

A low-performing subgroup school is any school in which one or more subgroups of students is performing—using the State’s methodology for identifying the lowest-performing schools for comprehensive support and improvement—at or below the performance of all students in any school identified based on being among the lowest-performing Title I schools. Each such school in a State must be identified for targeted support and improvement. A State must consider each of the individual subgroups of students included in its system of annual meaningful differentiation (see question A-2) when identifying schools with a low-performing subgroup.

Upon identification, in addition to meeting all of the requirements in 34 C.F.R. § 200.21 that apply to a school identified for targeted support due to one or more consistently underperforming subgroups, these schools are also subject to additional targeted support requirements with respect to both resource inequity review in 34 C.F.R. § 200.21(c)(7) and exit criteria in 34 C.F.R. § 200.21(f).

Note that this group of schools includes all schools that meet the definition, and is not limited to Title I schools.

(ESEA section 1111(d)(2)(C)-(D); 34 C.F.R. § 200.19(b)(2))

**D-15. May non-Title I schools be identified for comprehensive or targeted support and improvement?**

Yes. In fact, non-Title I schools must be identified as some types of comprehensive or targeted support and improvement schools. Non-Title I schools that meet the State’s identification criteria, consistent with all statutory and regulatory requirements, must be identified for:

- Comprehensive support and improvement: low graduation rate high schools;
- Targeted support and improvement: consistently underperforming subgroup schools; and
- Targeted support and improvement: low-performing subgroup schools.

Only Title I schools may be identified for comprehensive support and improvement based on being among the lowest-performing schools or chronically low-performing subgroup schools.

**D-16. Which schools are eligible to receive section 1003(a) school improvement funds?**

Any school that is identified for comprehensive support and improvement under 34 C.F.R. § 200.19(a) or targeted support and improvement under 34 C.F.R. § 200.19(b) is eligible to receive school improvement funds. Note that only schools that meet statutory and regulatory requirements for the identification of comprehensive or targeted support and improvement schools are eligible to receive section 1003(a) school improvement funds, even if a State identifies additional categories of schools for improvement beyond comprehensive and targeted support and improvement (see question D-2).

**D-17. If a non-Title I school receives section 1003(a) school improvement funds, is it obligated to comply with all Title I, Part A requirements?**

No. The receipt of section 1003(a) funds does not transform a non-Title I school into a Title I school. A non-Title I school that receives section 1003(a) school improvement funds must comply only with the applicable requirements for comprehensive or targeted support and improvement.

**D-18. May an LEA use section 1003(a) school improvement funds for general district-level improvement activities?**

An LEA may use section 1003(a) school improvement funds to pay for district-level activities to support implementation of comprehensive or targeted support and improvement activities in each comprehensive or targeted support school for which it receives school improvement funds. For example, an LEA might hire a district-level turnaround specialist to establish an “early warning system” designed to identify students in identified schools who may be at risk of failing to achieve high standards or graduate, or to support implementation of evidence-based interventions in such schools. However, an LEA may not use section 1003(a) school improvement funds to support district-level activities for schools that are not receiving those funds.

**D-19. How frequently must a State identify schools for comprehensive support and improvement?**

A State must identify schools, including those that are the lowest-performing schools, high schools with low graduation rates, and schools with chronically low-performing subgroups, for comprehensive support and improvement at least once every three years. A State may, at its discretion, choose to identify the different types of comprehensive support and improvement schools on different timelines (*e.g.*, high schools with low graduation rates once every three years, and the lowest-performing five percent of Title I schools annually), so long as all types of comprehensive support and improvement schools are identified at least once every three years.

Note that, because identified schools may use the year of their identification for planning to implement their comprehensive support and improvement plans under 34 C.F.R. § 200.22(d)(5) and because States may set exit criteria for such schools to improve after no longer than four years under 34 C.F.R. § 200.19(f)(1)(ii), a State choosing to identify such schools once every three years may identify a new cohort of schools for comprehensive support and improvement even as previously identified schools continue to implement their support and improvement plans, depending on the State’s exit criteria.

(ESEA 1111(c)(4)(D)(i); 34 C.F.R. § 200.19(d)(1)(i))

**D-20. Must a State use data from the preceding school year to inform identification of schools for comprehensive or targeted support and improvement?**

In general, a State must use data from the preceding school year to inform identification (*e.g.*, data from the 2017–2018 school year inform identification for the 2018–2019 school year), but can also choose to average that data with data from one or two school years prior to the preceding school year (see questions C-11 and C-13). However, for purposes of calculating the Graduation Rate indicator only, rather than using data from the preceding school year, a State may use data from the school year immediately prior to the preceding school year (*e.g.*, data from the 2016–2017 school year to inform identification for the 2018–2019 school year). Using lagged graduation rate data may help States more accurately include summer graduates in their calculations of the ACGR to determine whether a high school should be identified for support and improvement. A State choosing to use lagged graduation rate data may still average that data with data from one or two earlier school years.

(34 C.F.R. § 200.19(d)(2)(ii))

**D-21. When must a State first identify chronically low-performing subgroup schools for**

### **comprehensive support and improvement?**

The year in which a State must first identify chronically low-performing subgroup schools for comprehensive support and improvement will depend on the State-determined number of years for a school with low-performing subgroups to meet the exit criteria for such schools (see question D-1). Each State must identify its first cohort of schools with low-performing subgroups for targeted support and improvement by the start of the 2018–2019 school year. After a State-determined number of years, established by each State in its uniform exit criteria (see questions E-34 and E-35), a State will determine whether each Title I-participating school from this first cohort of schools with low-performing subgroups has successfully met its exit criteria; any Title I-participating school in the cohort that fails to meet the exit criteria must be identified for comprehensive support and improvement as a chronically low-performing subgroup school. For example, if a State determines that any Title I school with a low-performing subgroup that does not improve after implementing a targeted support plan for three years (including any planning years) must be identified as a chronically low-performing subgroup school, that State would first identify chronically low-performing subgroup schools by the start of the 2021–2022 school year.

We encourage States to consider how their timeline for identification of chronically low-performing subgroup schools interacts with and aligns to other required timelines in the accountability system, such as the timeline the State uses to identify schools for comprehensive support and improvement generally (at least once every three years). A State may find that it makes sense to establish exit criteria that determine which Title I schools with low-performing subgroups in additional targeted support and improvement should be moved to comprehensive support and improvement status as a chronically low-performing subgroup school *prior* to newly identifying other schools to implement an additional targeted support and improvement plan for the first time. This would result in exit criteria that set expectations for improvement over no more than three years.

#### **D-22. How frequently must a State identify schools for targeted support and improvement based on having one or more consistently underperforming subgroups?**

Each State must annually identify schools for targeted support and improvement based on having one or more consistently underperforming subgroups (ESEA section 1111(c)(4)(C)(iii); 34 C.F.R. § 200.19(d)(1)(ii)).

#### **D-23. How frequently must a State identify schools for targeted support and improvement based on having one or more low-performing subgroups?**

Each State must identify schools with one or more low-performing subgroups at least once every three years, on the same timeline as the State identifies schools for comprehensive support and improvement (34 C.F.R. § 200.19(d)(1)(iii)(B), (C)).

#### **D-24. By when must a State notify an LEA that serves one or more schools identified for comprehensive or targeted support and improvement of such identification?**

A State must notify each LEA that serves one or more schools identified for comprehensive or targeted support and improvement of such identification as soon as possible, but no later than the beginning of the school year for which such school is identified, consistent with ESEA section 1111(d)(1)(A) and (2)(A) and with 34 C.F.R. §§ 200.21(a) and 200.22(a)(1).

For example, if a school is identified for comprehensive support and improvement based on data from the 2017–2018 school year—and, if the State averages data over two or three school years for calculating the school’s performance on the accountability indicators as permitted under 34 C.F.R. § 200.20(a)(i), data from the 2016–2017 and 2015–2016 school years—the LEA must be notified of its identification by the beginning of the 2018–2019 school year.

**D-25. What requirements must an LEA meet with respect to the format of the notice it provides to parents that a school has been identified for comprehensive support and improvement?**

The notice to parents of a school’s identification must be:

- In an understandable and uniform format (see question D-28);
- To the extent practicable, written in a language that parents can understand or, if it is not practicable to provide written translations to a parent with LEP, orally translated for that parent (see question D-29); and
- Upon request by a parent who is an individual with a disability as defined by the Americans with Disabilities Act (42 U.S.C. § 12102), provided in an alternative format accessible to that parent (see question D-30).

(34 C.F.R. § 200.21(b)(1)-(3))

**D-26. What information must be included in the notice an LEA must give to parents of each student enrolled in a school that is identified for support and improvement?**

An LEA with one or more schools identified for comprehensive or targeted support and improvement must notify parents of each student enrolled in the school of the school’s identification, including, at a minimum:

- The reason or reasons for the identification (*e.g.*, low performance of all students, low high school graduation rate, chronically low-performing subgroup, or the subgroup(s) that are consistently underperforming, that are low-performing, or, at the State’s discretion, that did not meet a 95 percent participation rate); and
- An explanation of how parents can become involved in the needs assessment, if applicable, for the school and in developing and implementing the school’s support and improvement plan.

(34 C.F.R. §§ 200.21(b) and 200.22(b)(2))

ESEA section 8101(38) defines “parent” to include “a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).”

**D-27. If a school is identified for comprehensive or targeted support and improvement for more than one reason, must an LEA include all applicable reasons in the notice to parents?**

Yes. An LEA’s notification to parents must include “the reason or reasons” for a school’s identification (34 C.F.R. §§ 200.21(b), 200.22(b)(2)(i) (emphasis added)). For example, if a school is identified because the economically disadvantaged subgroup of students is identified as consistently underperforming and the EL subgroup of students is identified as low-performing, the LEA must include both reasons for identification in its notice to parents.

**D-28. How might an LEA ensure that the notification to parents regarding a school’s identification for comprehensive or targeted support and improvement is in an “understandable and uniform format”?**

The notification should use simple, plain language, and should avoid legal or professional educational terms that may be confusing or intimidating to parents. Notice that is understandable should enable parents to be engaged in development and implementation of the school support and improvement plan (including, if applicable, the needs assessment that will inform the selection of school improvement strategies), more meaningfully participate in school improvement activities, and take an active role in supporting their child’s

education. Such notice may include opportunities for parents to get involved in the development and implementation of the comprehensive or targeted support and improvement plan. The LEA can also develop a standardized template, with stock language, to use for all such notices in order to ensure that all parents in identified schools are receiving accurate and complete information; a State could also consider developing such a template for use by its LEAs.

**D-29. What are an LEA’s obligations with respect to providing notice of school identification to parents with LEP?**

The regulations require that notice of a school’s identification for comprehensive or targeted support and improvement be written in a language that parents can understand, “to the extent practicable” (34 C.F.R. §§ 200.21(b)(2), 200.22(b)). An LEA has discretion to determine whether, and the circumstances under which, providing a written translation is “practicable.” However, if written translations are not practicable, the LEA must provide information orally to LEP parents in a language that they understand.

In addition, under Title VI and its implementing regulations, States and LEAs have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or State that is called to the attention of non-LEP parents. Further information on State and LEA obligations to communicate with LEP parents can be found in the [Dear Colleague Letter jointly released by the Department of Education and the Department of Justice](#) in January 2015. For further information about communication with LEP individuals please see the Department of Justice’s Guidance on Title VI and Executive Order 13166, which may be found in the Federal Register, 67 Fed. Reg. 41455-41472 (June 18, 2002), or online at: [www.lep.gov](http://www.lep.gov).

**D-30. How might an LEA provide notice of school identification in a manner that is accessible to a parent who is an individual with a disability, including if an LEA provides notice on its Web site?**

While 34 C.F.R. § 200.21(b)(3) requires an LEA to provide parental notice of school identification, upon request by a parent who is an individual with a disability as defined by the ADA, in an alternative format accessible to that parent, States and LEAs have concurrent obligations under Section 504 and Title II of the ADA, which require that covered entities provide persons with disabilities with effective communication and reasonable accommodations necessary to avoid discrimination, unless it would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

In the case of an LEA making notice of school identification available on its Web site, accessibility of such notices and other information provided on Web sites is required not only by the ESEA and its implementing regulations, but also by the Federal civil rights requirements of Section 504 (29 U.S.C. § 794) and Title II of the ADA (42 U.S.C. §§ 12131 et seq.), and their implementing regulations. Although the Department does not require LEAs to use specific Web site accessibility standards, the Department has found that, generally, the best way to ensure compliance with accessibility requirements is to adhere to modern standards such as the Web Content Accessibility Guidelines (WCAG) 2.0, Level AA standard, which includes criteria that provide comprehensive Web accessibility to individuals with disabilities, including those with visual, auditory, physical, speech, cognitive, developmental, learning, and neurological disabilities. WCAG has been designed to be technology-neutral, and Level AA conformance is widely used. Accordingly, we strongly encourage LEAs that provide notices to parents via Web sites to consider that standard as they take steps to ensure that their Web sites comply with the statutory and regulatory requirements of the ESEA and with Federal civil rights laws. We note the developers of WCAG 2.0 have made an array of technical resources available on the World Wide Web Consortium (W3C) Web site at no cost to assist entities in implementing the standard. For more information, see: [www.w3.org/WAI/](http://www.w3.org/WAI/).

In addition, we note that, although parents with disabilities have the right to request notification in accessible

formats, we encourage States and LEAs to make all information and notices they provide to parents and families accessible proactively so that parents do not have to routinely make such requests. For example, one way an LEA can promote accessibility would be to produce materials in common alternative formats in advance so that they are available to persons with disabilities as soon as they are requested, and to provide such materials on an accessible Web site.

## E. OTHER TOPICS

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### Disaggregation of Data and Subgroups of Students

#### **E-1. Must a State’s minimum n-size for the “all students” group be the same as that for each subgroup?**

Yes. A State must establish the same minimum n-size for the “all students” group and for each subgroup, including any additional subgroups a State includes in its accountability system. If the number of all students in a school is less than a State’s minimum n-size, the State may develop an alternative methodology in order to meet the requirements for annual meaningful differentiation for the school, consistent with 34 C.F.R. § 200.18(a) and (d)(1)(iii) (see questions C-26 and C-27).

(ESEA section 1111(c)(3)(A)(i); 34 C.F.R. § 200.17(a)(2)(i))

#### **E-2. Must a State use the same minimum n-size for reporting that it uses for accountability?**

No. A State may use a smaller minimum n-size for reporting than it uses for accountability. When presenting data on a report card, a State or LEA must ensure that it protects the privacy of individuals, consistent with ESEA section 1111(i) and 34 C.F.R. § 200.17(b). Accordingly, the number of students in a category of reported data must be sufficient so that it does not reveal personally identifiable information about an individual student. For more information on identifying a minimum n-size for reporting purposes, see “[State and Local Report Cards under Title I, Part A of the ESEA, As Amended](#).” Whether a State chooses the same or a smaller minimum n-size for reporting than it uses for accountability, it must use the same minimum n-size for reporting disaggregated information for the all students group and for each subgroup of students.

(ESEA section 1111(c)(3); 34 C.F.R. § 200.17(a)(2)(iv))

#### **E-3. Must a State use the same minimum n-size for all accountability purposes (i.e., calculating performance against long-term goals, MIPs, and any measure within any indicator)?**

Yes. Consistent with ESEA section 1111(c)(3), a State must use the same minimum n-size for all accountability purposes, including measuring school performance for each indicator, and each measure within each indicator. For example, a State that uses a minimum n-size of 20 for purposes of determining performance on the Graduation Rate indicator would need to use a minimum n-size of 20 for all other accountability purposes, as well, and could not, for example, use a minimum n-size of 25 for purposes of determining performance on the Academic Achievement indicator (34 C.F.R. § 200.17(a)(2)(ii)).

#### **E-4. What information regarding its minimum n-size must a State submit as part of its State plan?**

Each State must include the following information in its State plan under ESEA section 1111, consistent with 34 C.F.R. § 299.17(b)(4):

- A description of how the State’s minimum n-size is based on sound methodology and is sufficient to yield statistically reliable information for each purpose for which disaggregated data are used, while ensuring, to the maximum extent practicable, that each student subgroup described in question A-2 is

included at the school level for meaningful differentiation and identification of schools;

- An explanation of how other components of the statewide accountability system, such as the State’s uniform procedure for averaging data (see questions C-11 to C-13), interact with the State’s minimum n-size to affect the statistical reliability and soundness of accountability data and to ensure the maximum inclusion of all students and each subgroup of students;
- A description of the strategies the State uses to protect the privacy of individual students for each purpose for which disaggregated data is required, including reporting on State and LEA report cards and the statewide accountability system;
- Information regarding the number and percentage of all students and students in each subgroup for whose results schools would not be held accountable in the State accountability system for annual meaningful differentiation. For instance, if a State chose an n-size of 20, it must provide the number and percentage *of students* in each subgroup that are excluded from school-level accountability determinations statewide using that n-size; this is distinct from the information required from States proposing to use an n-size larger than 30 regarding the number and percentage *of schools* held accountable for the results of students in each subgroup.

(ESEA section 1111(c)(3); 34 C.F.R. § 200.17(a)(3)(i)-(v))

**E-5. What additional information must a State provide in its State plan if it proposes to use a minimum n-size larger than 30 students?**

If a State proposes to use a minimum n-size larger than 30 students, in addition to the information described in question E-4, a State must also provide in its State plan under ESEA section 1111, and consistent with 34 C.F.R. § 299.17(b)(4), a justification for its proposed minimum n-size, explaining how a minimum n-size larger than 30 promotes sound, reliable accountability determinations. The justification must be supported with data on the number and percentage of schools in the State that would not be held accountable for the results of students in each subgroup (in the accountability system under the minimum n-size proposed by the State compared to the number and percentage of schools in the State that would not be held accountable for the results of students in each subgroup if the minimum number of students were 30.

(ESEA section 1111(c)(3); 34 C.F.R. § 200.17(a)(3)(v))

**E-6. If there are not a sufficient number of students in a subgroup for that subgroup to be included for accountability or reporting purposes at the school level, must students in the subgroup be included for reporting purposes at the LEA or State level?**

Yes. A State must include students in disaggregated information at each level for which the number of students is statistically sound and reliable, including for reporting information that is required to be disaggregated on LEA and State report cards (34 C.F.R. § 200.17(d)).

**E-7. Which students are included in the “economically disadvantaged students” subgroup?**

States have discretion to decide how to differentiate between economically disadvantaged and non-economically disadvantaged students. In the past, many States have relied on free or reduced-price lunch (FRL) participation under the National School Lunch Program (NSLP) as a proxy for family income. However, a growing number of schools are participating in the NSLP under special provisions (*i.e.*, the Community Eligibility Provision (CEP), Provision 2, or Provision 3), which expand and facilitate participation in the program by permitting eligible schools to provide meal service to all students at no charge regardless of individual students’ status economic status. As a result, the pool of students who are eligible for or participate in the NSLP in these schools may be greater than the pool of students that the State or LEA considers economically disadvantaged. States may therefore choose to rely on a different method to disaggregate students by family income, such as students identified through direct certification for NSLP, or

family participation in assistance programs like the Temporary Assistance for Needy Families (TANF) program or the Supplemental Nutrition Assistance Program (SNAP). The National Center for Education Statistics' [Forum Guide to Alternative Measures of Socioeconomic Status in Education Data Systems](#) may be a helpful resource.

We strongly encourage States to consider using direct certification, possibly in combination with other methods, in order to identify the students in a school who are economically disadvantaged. Consistent with existing guidance on the effect of NSLP special provisions on Title I,<sup>5</sup> however, States that use NSLP data to identify the economically disadvantaged subgroup may also continue to consider all students in a Provision 2, Provision 3, or CEP school as economically disadvantaged. Regardless of how a State defines “economically disadvantaged,” a State must use a consistent statewide definition to ensure comparability of data.

(ESEA section 1111(c)(2); 34 C.F.R. § 200.16(a))

#### **E-8. Which major racial and ethnic groups must a State include in its accountability system?**

A State must include, separately, information related to students from each major racial and ethnic group, as such groups are defined by the State. Federal guidance issued in the Federal Register on October 19, 2007 (see 72 Fed. Reg. 59267) included the following seven racial and ethnic groups:

- American Indian or Alaskan Native;
- Asian;
- Black or African American;
- Hispanic/Latino;
- Native Hawaiian or Other Pacific Islander;
- White; and
- Two or more races.

While States are not required to submit all racial and ethnic student-level data described in that guidance for ESEA accountability purposes, a State may find the guidance helpful in determining its major racial and ethnic groups. In addition, a State must describe, in its State plan under ESEA section 1111 and consistent with 34 C.F.R. § 299.17(b)(2), the major racial and ethnic groups it will include for accountability purposes. A State must include data for students within all approved racial and ethnic subgroups that meet the State's minimum n-size in accountability determinations for a particular school. As discussed further above, students from multiple different major racial and ethnic subgroups in a State cannot be combined into a single combined subgroup, or a “super-subgroup,” as a substitute for considering student data in each of the major racial and ethnic groups separately. A State must amend its State plan should it determine a need to change the major racial and ethnic groups it uses for reporting Title I accountability and assessment data.

(ESEA section 1111(c)(2); 34 C.F.R. § 200.16(a), (e))

#### **E-9. May a State include the performance of a former EL or former child with a disability for purposes of calculating performance of the EL or children with disabilities subgroup on any indicator other than the Academic Achievement indicator?**

Yes. A State may include the performance of a former EL or a former child with a disability in the applicable

<sup>5</sup> For additional information on CEP, Provision 2, and Provision 3, please refer to the Department's March 2015 non-regulatory guidance “[The Community Eligibility Provision and Selected Requirements Under Title I, Part A of the Elementary and Secondary Education Act](#)” and the February 20, 2003, [joint letter from the Department and the U.S. Department of Agriculture](#) regarding Provisions 2 and 3.

subgroup for up to four years or up to two years, respectively, after the student ceases to be identified as an EL or child with a disability for any indicator that uses data from the assessments requirement under ESEA section 1111(b)(2)(B)(v)(I) (*i.e.*, the statewide mathematics and reading/language arts assessments). Thus, a State may include former ELs and former children with disabilities in those subgroups for purposes of calculating the Academic Achievement indicator and the Academic Progress indicator, if the latter measures growth on those statewide assessments. Similarly, if a State includes a measure of the percentage of students scoring at advanced levels on the statewide reading/language arts or mathematics assessments in a School Quality or Student Success indicator, that measure may include former ELs or former children with disabilities in the respective subgroup. However, a State may not include former ELs or former children with disabilities in the respective subgroup when calculating a measure of, for example, school discipline data that is used in a School Quality or Student Success indicator, because that data is not provided through the statewide assessments.

A State is also required to include the performance of former ELs and former children with disabilities for purposes of reporting the ACGR of the EL and children with disabilities subgroups under the ESEA, if such students were members of those subgroups at any point during the relevant cohort period.

(ESEA section 1111(b)(3)(B); 34 C.F.R. §§ 200.16(d)(1) and 200.34(e)(2))

**E-10. If a State chooses to include the scores of former ELs or former children with disabilities in the respective subgroups for calculating school performance on an indicator that uses State assessment data, may the State include in those calculations only the scores of certain former ELs or certain former children with disabilities?**

No. Under 34 C.F.R. § 200.16(b) and (c)(1), if a State decides to include the scores of former children with disabilities and former ELs in calculating subgroup performance on an indicator based on data from the statewide assessments in reading/language arts and mathematics, it must include in those calculations the scores of all such students. A State may not include just the scores of some students—for example, those who perform at the highest levels on the State assessments—and exclude the scores of others. Otherwise, a State would not be using “a uniform statewide procedure... that includes all such students.”

Note that former ELs and former children with disabilities also must always be included in calculating the performance of any other subgroup to which they belong (*e.g.*, economically disadvantaged students, the applicable racial or ethnic group).

**E-11. May a State include the performance of a former EL or a former child with a disability for purposes of reporting performance of the relevant subgroup on a State or LEA report card?**

In general, a State may not include former ELs or former children with disabilities for the purpose of reporting on the academic achievement of the EL or children with disabilities subgroup on the statewide assessments, or for purposes of reporting on any other required data for that subgroup. However, if a State chooses to include former ELs or former children with disabilities in the applicable subgroup for any of its indicators that use State reading/language arts and mathematics assessment data, the State would, in reporting on a school’s performance on that indicator, include the former ELs in the EL subgroup and former children with disabilities in the children with disabilities subgroup.

Further, consistent with 34 C.F.R. § 200.34(e)(2), a State must report the ACGR such that students in the cohort who were ELs or children with disabilities at any time during the cohort period are included in, as applicable, the EL or children with disabilities subgroup. See “[High School Graduation Rate: Non-Regulatory Guidance](#)” for additional information regarding this requirement and calculation of the ACGR.

(ESEA section 1111(b)(3)(B) and 1111(h)(1)(C); 34 C.F.R. § 200.16(d)(2))

**E-12. Must a State include English learners with a disability in the EL subgroup for accountability purposes?**

Yes. All ELs, including ELs with a disability that receive services under the IDEA, Section 504, or Title II of the ADA, must be included in the EL subgroup for purposes of all accountability determinations that are based on subgroup performance.

**Long-Term Goals and Measurements of Interim Progress (MIPs)****E-13. What are the State-designed long-term goals and measurements of interim progress?**

Each State must establish ambitious State-designed long-term goals and MIPs, focused on key indicators within the statewide accountability system (ESEA section 1111(c)(4)(A); 34 C.F.R. § 200.13). Goals, which cover a State-determined period of time, provide stakeholders, including State and local leaders, educators, parents, and other members of the community, with an objective long-term target against which to measure school and LEA performance across the State.

While goals may cover performance over a number of years, MIPs are unique targets (typically set on an annual basis) within the time period covered by the longer-range goals that help determine if the State, districts, and schools are on track to meet the long-term goals.

**E-14. In establishing long-term goals and MIPs for improved student academic achievement, what measure of achievement must a State use?**

A State must establish long-term goals and MIPs for improved academic achievement based on the percentage of students attaining grade-level proficiency or above on the annual statewide reading/language arts and mathematics assessments under ESEA section 1111(b)(2)(B)(v)(I). To measure grade-level proficiency for all public school students, a State must use its statewide academic achievement standards, consistent with ESEA section 1111(b)(1), except for students with the most significant cognitive disabilities, whose performance may be assessed (*i.e.*, using the State's alternate assessment) against alternate academic achievement standards defined by the State consistent with ESEA section 1111(b)(1)(E).

(ESEA section 1111(c)(4)(A)(i)(I)(aa); 34 C.F.R. § 200.13(a)(1)(i), (a)(2)(i))

**E-15. In establishing long-term goals and MIPs for improved graduation rates, what graduation rate calculation may a State use?**

A State must establish long-term goals and MIPs for improved high school graduation rates based on the four-year ACGR. In addition, if a State chooses to include an extended-year ACGR as part of its Graduation Rate indicator in its accountability system, it must also establish long-term goals and MIPs for that extended-year ACGR.

(ESEA section 1111(c)(4)(A)(i)(I)(bb); 34 C.F.R. § 200.13(b)(2))

**E-16. How might a State establish MIPs that require greater rates of improvement for subgroups that are lower-achieving or that graduate high school at lower rates than other subgroups?**

In setting MIPs for academic achievement and graduation rates, the State's methodology must take into account the improvement necessary for *each* subgroup of students to make significant progress in closing statewide proficiency and graduation rate gaps, such that a State's MIPs require greater rates of improvement for subgroups that are lower-achieving or that graduate high school at lower rates (ESEA section

1111(c)(4)(A)(i)(III); 34 C.F.R. § 200.13(a)(2)(iii), (b)(3).

To help ensure that its MIPs meet these requirements, a State should first examine its current data, disaggregated by subgroup, to determine the size of gaps between and among all subgroups of students in the State and to determine which subgroups are performing below-average on State assessments or graduating at below-average rates. The Department encourages a State to focus on the gaps among all subgroups of students, not solely on the gaps between the lowest-performing subgroup and the highest-performing subgroup in the State. Further, by analyzing available subgroup data, States will be better positioned to determine an approach to setting MIPs that makes sense for their particular contexts and that will best drive student performance and gap closure across student subgroups.

One way that a State could set long-term goals and MIPs that require greater rates of improvement for subgroups that are lower-achieving would be to set a long-term goal to reduce by half the percentage of students in the all students group and in each subgroup of students who are not proficient or above on State assessments and then set MIPs toward that goal for each subgroup. Or, a State could set a single long-term goal for all subgroups, but different MIPs for each individual subgroup; subgroups closer to the long-term goal would require smaller interim increases between each MIP. Both of these methods would ensure that subgroups of students who are further behind are expected to make greater rates of annual progress. These two methods are offered merely as examples; there are numerous other ways for a State to meet this requirement.

**E-17. In establishing long-term goals and MIPs for academic achievement and graduation rates, must a State set the same long-term goals and MIPs for all subgroups of students and the all students group?**

No. In fact, in some instances it may be necessary for a State's long-term goals and MIPs for academic achievement and graduation rates to vary by individual student subgroups in order to meet the requirement that an State take into account the improvement necessary for each subgroup of students to make significant progress in closing statewide proficiency and graduation rate gaps, such that the State's MIPs require greater rates of improvement for subgroups that are lower-achieving or that graduate high school at lower rates, respectively. In other words, while the State must have a uniform methodology or approach for establishing its long-term goals and MIPs, the actual numeric goals and MIPs may vary by subgroups of students.

(ESEA section 1111(c)(4)(A)(i)(III); 34 C.F.R. § 200.13(a)(2)(iii), (b)(3))

**E-18. Must a State set the same multi-year timeline to achieve the State's long-term goals for all students and each subgroup of students?**

Yes. In establishing long-term goals and MIPs for academic achievement, graduation rates, or progress toward attaining ELP, a State must use the same multi-year timeline to achieve the State's long-term goals for all students and for each subgroup of students (except that goals for progress toward attaining ELP need only be established for the EL subgroup). Although the timeline must be the same, long-term goals and MIPs themselves may vary by subgroup (in the case of academic achievement and graduation rates) in order for attainment of the goals and MIPs to result in significant progress in closing statewide proficiency and graduation rate gaps (see question E-16). For example, a State might set a timeline of six years to attain its long-term goals, but the goals themselves might vary by subgroup. If a State chooses to establish different long-term goals and MIPs for individual schools and/or LEAs (see question E-19), it would also be required to use the same multi-year timeline (*e.g.*, six years) for all students and each subgroup of students in all schools and LEAs.

(ESEA section 1111(c)(4)(A)(i)(II); 34 C.F.R. § 200.13)

**E-19. In establishing long-term goals and MIPs, must a State set the same long-term goals and MIPs for all schools and LEAs?**

No. A State may, but is not required to, use a methodology for establishing long-term goals and MIPs that results in different long-term goals and MIPs from its State-level goals and MIPs for individual schools or LEAs, using the school's or LEA's current performance as the starting point. However, a State choosing to use an approach that sets differentiated academic achievement and graduation rate long-term goals and MIPs for its LEAs and/or schools must still ensure that, when considered in the aggregate, the long-term goals and MIPs across all schools and LEAs are established in a way that expects greater rates of improvement for subgroups that are lower-achieving or that graduate high school at lower rates than other subgroups and that, if achieved, would result in significant progress in closing statewide proficiency and graduation rate gaps (see question E-16).

Further, in its State plan, a State choosing to establish a statewide approach that differentiates long-term goals and MIPs at the LEA- or school-level must describe its methodology for establishing these goals and how it meets all applicable requirements, but need not provide the specific numerical goals or MIPs for each individual school or LEA.

(ESEA section 1111(c)(4)(A); 34 C.F.R. § 200.13(a)(1)(ii), (b)(1)(ii), and (c)(1)(ii))

**E-20. If a State differentiates its long-term goals and MIPs among subgroups of students and/or among its LEAs and schools, what aspects of its long-term goals and MIPs must be the same statewide?**

Although a State may differentiate the long-term goals and MIPs for subgroups of students and/or for LEAs and schools, the State must:

- establish the **same statewide method** for setting long-term goals and MIPs for academic achievement, graduation rates, and progress toward attaining ELP across all LEAs, for all subgroups of students, in the State (see questions E-17 and E-19);
- use the **same multi-year timeline** for achieving its long-term goals for all students and subgroups (see question E-18);
- base the academic achievement goals on the **same academic achievement standards** for all students and subgroups of students (see question E-14); and
- use the **same measures** of academic achievement and graduation rates in calculating student progress against the goals and MIPs (see questions E-14 and E-15).

**E-21. If an EL does not attain ELP on the State's ELP assessment within the applicable timeline determined by the State in its uniform procedure for setting student-level targets that inform the State's long-term goals and MIPs, may a State exit the student from EL status?**

No. Although a State's uniform procedure for setting student-level targets must expect that an EL will attain ELP within a period of time after being identified as an EL, the timeline for attaining ELP established as part of the uniform procedure must only be used for accountability purposes. An EL who does not attain ELP within the applicable timeline for the student, as determined by the State's uniform procedure for establishing student-level targets, must not be exited from EL services or status prior to attaining ELP.

In order to exit EL status, an EL must attain ELP, based on the State's annual ELP assessment required under ESEA section 1111(b)(2)(G); further, he or she must also meet any other State procedures and criteria for exiting EL status, consistent with ESEA section 3112(b)(2)(A) and 34 C.F.R. § 299.19(b)(4). Nothing in the regulations issued by the Department following the passage of the ESSA affects States' and LEAs' obligations under Title VI or other Federal civil rights laws, including States' and LEAs' obligations with

regard to the exit of students from EL status and services. Further, long-term goals and MIPs, including the student-level targets, established by each State do not change the State and LEA’s obligation to assist individual ELs in overcoming language barriers within a reasonable period of time, consistent with requirements under Title VI and the EEOA. Further information on legal obligations under Title VI and the EEOA can be found in the [Dear Colleague Letter jointly released by the Department of Education and the Department of Justice](#) in January 2015. Further information on setting long-term goals and MIPs for ELP may be found in [“Resource Guide: Accountability for English Learners under the ESEA.”](#)

(ESEA section 1111(c)(4)(A)(ii); 34 C.F.R. § 200.13(c)(4))

### **Evidence-based Interventions**

#### **E-22. What are the evidence requirements that apply to one or more of the interventions to be included in a comprehensive or targeted support and improvement plan and implemented in an identified school?**

One or more of the interventions that are implemented to improve student outcomes in a school identified for comprehensive or targeted support and improvement must:

- Meet the definition of “evidence-based” under ESEA section 8101(21) (see the Department’s non-regulatory guidance, [“Using Evidence to Strengthen Education Investments,”](#) with suggested criteria for the four levels of evidence provided in the definition);
- Be supported, to the extent practicable, by evidence from a sample population or setting that overlaps with the population or setting of the school to be served; and
- Be supported, to the extent practicable, by the strongest level of evidence (*e.g.*, strong evidence, as opposed to moderate evidence or promising evidence) that is available and appropriate to meet the needs identified in the needs assessment for the school.

(ESEA section 1111(d)(1)(B), (2)(B); 34 C.F.R. §§ 200.21(d)(3)(i)-(iii), 200.22(c)(4)(i)-(iii))

In addition, States may develop a list of State-approved evidence-based interventions, and may, if they choose, require schools identified for comprehensive or targeted support and improvement to use interventions from that list. In other words, the evidence-based interventions may be selected from a non-exhaustive list of evidence-based interventions if such a list is established by the State. Or, if the State establishes an exhaustive list of evidence-based interventions from which LEAs and schools must choose, the evidence-based intervention would need to be selected from that list by each LEA or school (34 C.F.R. §§ 200.21(d)(3)(iv), 200.22(c)(4)(iv)). Similarly, an LEA could also choose to use an evidence-based intervention determined by the State in a school identified for comprehensive support and improvement, consistent with State law, as described in ESEA section 1111(d)(1)(3)(B)(ii) and 34 C.F.R. § 200.23(c)(3). See question E-25 for more information about these optional authorities for States to develop a list of evidence-based interventions or State-determined interventions.

Finally, in any high school identified as a low graduation rate high school that predominately serves students returning to education after having exited secondary school without a regular high school diploma or students who, based on their grade or age, are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements, as established by the State, one or more of the interventions may include differentiated improvement activities that utilize evidence-based interventions (ESEA section 1111(d)(1)(C)(i); 34 C.F.R. § 200.21(d)(3)(vi)). It is important to note that, although the statute and regulations explicitly permit differentiated improvement activities for these specific high schools, an LEA may and, in fact, should, create differentiated improvement plans for each of its identified schools, which should be based on the school’s needs assessment and designed to address the identified needs.

#### **E-23. What does it mean for an intervention to be supported, to the extent practicable, by evidence**

**from a sample population or setting that overlaps with the population or setting of the school to be served and by the strongest level of evidence available?**

The definition of “evidence-based” in ESEA section 8101(21) includes four levels of evidence from which interventions may be selected: “strong” evidence, “moderate” evidence, “promising” evidence, and interventions where the LEA or school “demonstrates a rationale.” The definition in ESEA section 8101(21) specifies that the strength of an intervention is established based on the quality and design of the research studies supporting that intervention (in the case of strong, moderate, and promising levels of evidence), or based on high-quality research findings or positive evaluations (in the case of evidence based on “demonstrating a rationale”). For additional explanation, see the Department’s non-regulatory guidance, “[Using Evidence to Strengthen Education Investments](#),” which includes suggested criteria for the four levels of evidence provided in the statutory definition. As the evidence an LEA or school will rely on to support the use of a specific intervention in an identified school will likely be drawn from external research studies and evaluations of that intervention (*i.e.*, research or evaluations conducted outside of the LEA and school to be served), it is important for an LEA or school to consider the context in which those external studies and evaluations were completed in order to determine whether the intervention is relevant and likely to be successful in the context of the school to be served.

The greater the overlap between the population and setting of the school to be served, and the sample population and setting used in the supporting research or evaluation of an evidence-based intervention, the greater the likelihood that the particular evidence-based intervention will be successful in improving student outcomes in the identified school. In analyzing the extent of overlap, the population refers to the subset of students that is the focus of the intervention (*e.g.*, students with disabilities, ELs), while the setting refers to the place in which the students receive the intervention (*e.g.*, in elementary schools). Overlap means that the population and/or setting of the relevant evidence is similar to the population and/or study where the intervention will be implemented.

While an LEA or school is not required to select an evidence-based intervention that is supported by evidence from a sample population or setting that overlaps with the population or setting of the school to be served, the Department strongly encourages LEAs to select evidence-based interventions in a way that balances the two priorities reflected in 34 C.F.R. § 200.21(d)(3)(ii)-(iii) and § 200.22(c)(4)(ii)-(iii): selecting an intervention supported by the strongest level of evidence available and where the overlap between the sample population and setting of the evidence supporting the intervention (*i.e.*, the research or evaluation) and the population and setting of the school to be served is significant. For example, an LEA may determine that an evidence-based intervention based on promising evidence from a sample population and setting that significantly overlaps with the population and setting of the school to be served is preferable over an evidence-based intervention based on strong evidence from a sample population and setting that does not overlap at all with the population and setting of the school to be served. The What Works Clearinghouse™ (WWC) uses rigorous standards to review evidence of effectiveness on a wide range of interventions and also summarizes the settings and populations in the studies: <http://ies.ed.gov/ncee/wwc/>.<sup>6</sup>

**E-24. What does it mean for an intervention to be supported, to the extent practicable, by the strongest level of evidence that is available and appropriate to meet the needs identified in the needs assessment for the school?**

The definition of “evidence-based” in ESEA section 8101(21) states that at least one “well-designed and well-implemented” study is needed to provide strong, moderate, or promising evidence for an intervention (the

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<sup>6</sup> In addition to the WWC, evidence resources like the Department’s [Regional Educational Laboratories \(RELs\)](#) and other federally-funded technical assistance centers may provide summaries of the evidence on various interventions and guidance on how existing research aligns to the ESEA evidence levels

three highest levels), but the type of study varies based on the evidence level: an experimental study is required in order to provide strong levels of evidence, a quasi-experimental study is required at the moderate level, and a correlational study with statistical controls for selection bias is required at the promising level.

While LEAs, schools, and other stakeholders should consider the entire body of relevant evidence when selecting school improvement strategies, including whether the sample population and setting are overlapping with the school to be served (see question E-23), when available, interventions supported by higher levels of evidence—specifically strong evidence and moderate evidence (which describe the effectiveness of an intervention through *causal inference*)—should be prioritized to address the needs of the identified school, as these strategies have a track record of effectiveness. Stakeholders should also consider whether there is evidence that an intervention has substantially improved an important education outcome (*e.g.*, credit accumulation and high school graduation) that is related to the school’s identified needs. The Department strongly encourages LEAs and schools to select the most rigorous evidence-based interventions to address the issues identified in the schools’ needs assessment, if applicable, in order to create sustained improvement in the school.

That said, there is no general requirement for a school identified for comprehensive or targeted support and improvement to use an intervention supported by a specific level of evidence. However, there are specific evidence-level requirements for schools that are using funds under ESEA section 1003 to support school improvement (see question E-27) and for schools in comprehensive support and improvement that have failed to meet the State-established exit criteria (see questions E-31 and E-32).

In addition, the Department’s non-regulatory guidance, “[Using Evidence to Strengthen Education Investments](#),” includes suggested criteria for the four levels of evidence provided in the statutory definition, with explanations of how these levels are consistent with WWC evidence standards.

**E-25. What is the difference between “an exhaustive or non-exhaustive list of evidence-based interventions” established and approved by a State that can be used in all identified schools and “evidence-based, State-determined interventions” that can be used by LEAs in a school identified for comprehensive support and improvement?**

An “exhaustive or non-exhaustive list of evidence-based interventions” would constitute a pre-approved list of interventions that a State has determined meet the definition of “evidence-based” under ESEA section 8101(21). For example, LEAs would be able to select interventions from such a list to meet the requirement for using evidence-based interventions in their comprehensive support and improvement plans without having to make individual evidence determinations about particular interventions. An exhaustive list would include all possible interventions that may be implemented in an identified school, while a non-exhaustive list would include examples of evidence-based interventions that may be implemented in identified schools. However, regardless of the type of list, the interventions on it must meet the definition of “evidence-based” under ESEA section 8101(21) (see the Department’s non-regulatory guidance, “[Using Evidence to Strengthen Education Investments](#).”) Furthermore, the State must ensure that establishing this list is consistent with State law. We encourage States choosing to develop a list of evidence-based interventions to provide enough flexibility to LEAs and schools, so that LEAs, for example, can choose an intervention that addresses the reasons or reasons the school was identified for comprehensive support and improvement, as identified in its needs assessment.

An “evidence-based, State-determined intervention,” on the other hand, is an intervention developed by a State, consistent with ESEA section 1111(d)(3)(B)(ii), which may be a whole-school reform model, and that may be used by LEAs and schools to meet the requirement for using evidence-based interventions in their comprehensive, but not targeted, support and improvement plans. For example, in the past, some States have required changes in the governance of the lowest-performing schools in the State so that they are operated by a unique school district designed to turnaround these schools, or so that they have greater operational and

budgetary flexibility even if they remain in their current LEA. States have also determined their own school intervention models for use by LEAs receiving School Improvement Grants under the ESEA, as amended by the NCLB (available at: <http://www2.ed.gov/programs/sif/index.html>). These types of State-determined strategies, if they meet the ESEA’s evidence-based definition, would be permitted under 34 C.F.R. § 200.21(d)(3)(v).

Note, these optional authorities for a State to establish lists of evidence-based interventions or to develop evidence-based, State-determined interventions are separate from the requirement in ESEA section 1111(d)(3)(A)(i)(I) and 34 C.F.R. § 200.21(f)(3)(iii)(A) that a State must determine more rigorous evidence-based interventions that are used in any school identified for comprehensive support and improvement that has implemented a support and improvement plan, but failed to meet the State’s exit criteria.

**E-26. Must every intervention that is implemented in a school identified for support and improvement meet the evidence requirements discussed in question E-22?**

No. The Title I regulations in 34 C.F.R. §§ 200.21(d) and 200.22(c) clarify that at least one of the interventions that is implemented in a school identified for support and improvement must be evidence-based, meaning that it meets the definition of “evidence-based” in ESEA section 8101(21). A school that is so identified may choose to implement multiple, complementary interventions or improvement activities, not all of which must meet the evidence requirements in the statute and regulations.

We encourage LEAs and schools that choose to implement additional interventions for which there is not yet an evidence base to evaluate the effectiveness of those interventions in order to build evidence. We also note that an LEA or school that selects an evidence-based intervention that “demonstrates a rationale based on high-quality research findings or positive evaluation that such . . . intervention is likely to improve student outcomes or other relevant outcomes” must engage in “ongoing efforts to examine the effects” of the intervention, consistent with ESEA section 8101(21). For more information on the evidence-based definition and ways to evaluate interventions, see “[Using Evidence to Strengthen Education Investments](#).”

**E-27. What are the requirements for evidence-based interventions supported with section 1003(a) school improvement funds?**

Consistent with ESEA section 8101(21)(B), evidence-based interventions supported with section 1003(a) school improvement funds must be based on strong, moderate, or promising evidence of a statistically significant effect on improving student outcomes or other relevant outcomes, as defined in ESEA section 8101(21)(A). Interventions based on the lower evidence threshold set forth in ESEA section 8101(21)(B), a rationale that the intervention is likely to improve student outcomes or other relevant outcomes—the lowest threshold for evidence-based interventions—do not qualify.

**School Support and Improvement Plans**

**E-28. What stakeholder engagement requirements must a school meet with respect to the development and implementation of its comprehensive or targeted support and improvement plan?**

An LEA must develop and implement a comprehensive targeted support and improvement plan and a school must develop and implement a targeted support and improvement plan that is developed in partnership with stakeholders (including the school’s principals and other school leaders; teachers; and parents and, as appropriate, students), as demonstrated by, at a minimum, describing in the plan how—

- Early stakeholder input was solicited and taken into account in the development of the plan, including any changes made as a result of that input; and
- Stakeholders will have an opportunity to participate in an ongoing manner in the plan’s

implementation.

(ESEA section 1111(d)(1)(B) and (d)(2)(B); 34 C.F.R. §§ 200.21(d)(1) and 200.22(c)(1))

Generally, the Department strongly recommends that LEAs and schools design processes that provide a broad range of stakeholders the opportunity to provide meaningful feedback throughout the development and implementation of plans and policies under the ESEA, including school-level improvement plans. For examples of strategies to design effective stakeholder engagement, see the Department's [Dear Colleague Letter on stakeholder engagement](#).

**E-29. What is involved in “taking all actions necessary to ensure” that a school and LEA meet their obligations with respect to schools identified for comprehensive support and improvement?**

A State has discretion to determine what actions it needs to take to ensure that a school and LEA meet their obligations with respect to a school identified for comprehensive support and improvement. Among the obligations a State must ensure each LEA and identified school meet are the obligations with respect to conducting a needs assessment, developing a comprehensive support and improvement plan that meets all requirements, and implementing the plan in a timely manner. To ensure that LEAs and schools meet these requirements, a State might, for example, set a timeline for an LEA's development and submission of its comprehensive support plan to the State for approval. A State might also take steps to be involved early in the planning process to make sure all steps are completed on-time. Further, taking all actions necessary to ensure timely development and implementation of a plan that meets all requirements may include taking steps to ensure that neither the identified school nor its LEA hinder successful plan development, drafting, and approval. For example, if a school chooses not to finish drafting the improvement plan with its LEA, the State may support the LEA in completing it.

Additionally, if a State finds that a comprehensive support and improvement plan submitted by an LEA does not meet all of the regulatory requirements, a State should, in general, work cooperatively with the LEA and school, as well as relevant stakeholders, regarding any suggested changes to the plan to ensure that it can be completed and implemented in a timely manner. When suggesting changes, the State should consider the scope of the changes and the stakeholders affected. If the State suggests changes be made to the plan in order to meet applicable legal requirements and both the LEA and school decline to make the changes, the State may require that the changes be made prior to its approval of the plan.

(ESEA section 1111(d)(1)(B)(v); 34 C.F.R. § 200.21(e)(1))

**E-30. How can a State ensure that its LEAs implement interventions in targeted support and improvement plans in a manner that meets the requirements of ESEA and civil rights laws?**

Each targeted support and improvement plan must be designed to improve student performance for the lowest-performing students on each of the indicators that led to the identification of the school or to improve student participation on the statewide assessments, if the school was identified based on its participation rate. In meeting this requirement, however, a State is not relieved from its obligation to comply with civil rights laws, including laws that prohibit discrimination based on race, color, national origin, sex, disability and age and laws that require the provision of a free appropriate public education to eligible children with disabilities (see question A-9).

This means that although targeted support and improvement schools are identified based on the performance of a particular subgroup or subgroups, an LEA must consider the needs of the lowest-performing subgroups in the school in designing improvement plans and not focus its evidence-based interventions exclusively on the needs of students that compose the subgroup or subgroups that caused the school to be identified. Rather, interventions and strategies should be designed to improve the performance of the lowest-

performing students in the school—based on an assessment of the specific academic needs of the school and its students—regardless of the particular subgroup or subgroups to which the students belong. Implementing interventions in targeted support and improvement schools based on educational needs as opposed to simply membership in a particular subgroup will help an LEA comply with relevant civil rights laws.

**E-31. What are the requirements for the additional interventions that must be implemented in a school that did not meet the exit criteria for a school identified for comprehensive support and improvement within a State-determined number of years?**

Additional interventions that must be implemented in a school that did not meet the exit criteria for a school identified for comprehensive support and improvement within a State-determined number of years must:

- **Be determined by the State**, which may include requiring an intervention from among any “State-determined, evidence-based interventions” or a State-approved list of evidence-based interventions (see questions E-25), consistent with State law and the Title I regulations;
- **Be more rigorous** than the interventions previously implemented, including one or more evidence-based interventions that are supported by strong or moderate evidence (see question E-24);
- Be supported, to the extent practicable, by evidence from a sample population or setting that overlaps with the population or setting of the school to be served (see question E-23); and
- Be described in the State plan under ESEA section 1111 and consistent with 34 C.F.R. § 299.17(d)(3).

(ESEA section 1111(d)(3)(A)(i)(I); 34 C.F.R. § 200.21(f)(3))

**E-32. What does it mean for “additional interventions” in comprehensive support and improvement schools to be “more rigorous”?**

To be more rigorous, the additional State-determined interventions implemented in a comprehensive support and improvement school not meeting exit criteria should either meet a higher level of evidence than the interventions included in the original support and improvement plan, and should represent an increase in the intensity of effective interventions in the school’s original plan. When choosing appropriate interventions, a State, in partnership with the LEA, schools, and other stakeholders, should consider the fit of the intervention for the school’s needs, as well as the strength and relevance of the evidence supporting it. At a minimum, at least one additional intervention in the updated comprehensive support and improvement plan must be supported by strong or moderate evidence, as defined in ESEA section 8101(21)(A) (see the Department’s non-regulatory guidance, “[Using Evidence to Strengthen Education Investments](#).”)

(ESEA section 1111(d)(3)(A)(i)(I); 34 C.F.R. § 200.21(f)(3)(iii)(B))

**E-33. May a school exit status as a school identified for targeted support and improvement if the school improves student outcomes and no longer meets the criteria for which it was originally identified (*i.e.*, consistently underperforming subgroups of students) but meets other criteria for identification (*i.e.*, low-performing subgroups of students)?**

Yes. An LEA is not required to establish exit criteria that require that a school no longer meet any of the three criteria used to identify schools for targeted support and improvement. For example, a school that was identified because of a consistently underperforming subgroup may exit status as a targeted support and improvement school even if, during this time, another subgroup in the school has begun to struggle such that the school meets the criteria the State previously used to identify schools for additional targeted support based upon one or more low-performing subgroups. The State may, however, need to subsequently identify that school based on the low-performing subgroup (depending on how frequently a State identifies schools for additional targeted support based upon one or more low-performing subgroups; such identification would

occur at least once every three years), and the school would be required to develop a targeted support and improvement plan to address the new criteria under which it has been identified.

Accordingly, an LEA may decide that it is more practical to establish exit criteria that would permit a school to exit status only if it does not meet any of the criteria for identification as a targeted support and improvement school. Such exit criteria would prevent a school from exiting and then being immediately re-identified and would allow such a school to amend an existing plan to address the changing needs of the school.

In addition, in the case of a school that does not exit status based on the original criteria for identification, and is subsequently also identified under a second criterion for targeted support and improvement, a school should amend its improvement plan to address the additional reason for identification.

**E-34. What action must a State take when a Title I school identified for additional targeted support and improvement based on having one or more low-performing subgroups does not meet the State’s exit criteria?**

A State must identify for comprehensive support and improvement any Title I school that was identified for additional targeted support and improvement based on having one or more low-performing subgroups and that did not meet the State’s exit criteria for such schools within a State-determined number of years. (ESEA section 1111(c)(4)(D)(i)(III) and 1111(d)(3)(A)(i)(II); 34 C.F.R. § 200.19(a)(3))

A State is not required to identify for comprehensive support and improvement a non-Title I school that was identified for additional targeted support and improvement based on having one or more low-performing subgroups and that did not meet the LEA’s exit criteria, although the school would remain identified for additional targeted support and improvement and be required to amend its plan to include additional actions. Instead, LEAs establish exit criteria for these schools. A State may, however, choose to take other actions, besides identification for comprehensive support and improvement, with respect to these schools. For example, a State could approve their amended targeted support and improvement plan or require these schools to take more rigorous actions in its amended plan, similar to action taken in comprehensive support and improvement schools (see questions E-31 and E-32).

**E-35. How many years should a State consider in the uniform exit criteria it establishes for schools identified for additional targeted support and improvement based on one or more low-performing subgroups?**

While each State may determine the specific number of years that it will use in its exit criteria, we strongly encourage States to consider how this timeline will interact with and align to other required timelines in the accountability system, such as the timeline the State uses to identify schools for comprehensive support and improvement generally (at least once every three years), which informs how frequently new schools will be identified for additional targeted support based upon one or more low-performing subgroups. A State may find that it makes sense for its overall system to establish exit criteria that determine which Title I schools in additional targeted support and improvement should be moved to comprehensive support and improvement status and which Title I schools may exit status *prior* to newly identifying other schools to implement an additional targeted support and improvement plan for the first time. This would result in exit criteria that set expectations for improvement over no more than three years.

On the other hand, a State may also want to consider the timelines used in the exit criteria for schools identified for comprehensive support and improvement, which may not exceed four years. Such a timeline in the State’s exit criteria could allow time for both a planning year and three full years of implementation prior to determining whether a school identified for additional support and improvement met the exit criteria and must be identified for comprehensive support and improvement.

**E-36. What is a “significant number or percentage” of schools identified for comprehensive support and improvement or targeted support and improvement within an LEA for purposes of determining a State’s responsibilities to support school improvement?**

A State has discretion to determine what constitutes a “significant number or percentage” of schools identified for comprehensive or targeted support and improvement for the purpose of triggering State responsibilities to support continued improvement for LEAs with significant numbers or percentages of identified schools. However, a State must identify at least one LEA that will receive the required supports from the State outlined in 34 C.F.R. § 200.23(a) and (b). Further, because the State determines what constitutes a “significant number or percentage” of identified schools in an LEA, the State should ensure that it retains the discretion to provide additional assistance to any LEA that may not meet that threshold, but nonetheless has a significant need for assistance in the effective implementation of comprehensive or targeted support and improvement plans.

**E-37. What are the State’s responsibilities regarding review of available resources for LEAs that serve a significant number or percentage of schools identified for either comprehensive support and improvement or targeted support and improvement?**

For each LEA serving a significant number or percentage of schools identified for either comprehensive or targeted support or improvement, a State must periodically review available resources as compared to other LEAs in the State. In addition, a State must periodically review available resources at the school-level, by considering resources available to schools in those LEAs as compared to other schools in the State. These reviews must identify inequities in resources and, to the extent practicable, address any identified inequities in resources. A State must also describe how it will conduct this periodic review in its State plan under ESEA section 1111, consistent with 34 C.F.R. § 299.17(d)(4).

More specifically, in its review, a State must identify and, to the extent practicable, address inequities related to—at a minimum—the same resources considered in school-level support and improvement plans (see 34 C.F.R. § 200.21(d)(4)(i)), including:

- differences in rates at which low-income and minority students are taught by ineffective, out-of-field, or inexperienced teachers as determined by the State and the LEA under ESEA sections 1111(g)(1)(B) and 1112(b)(2), respectively;
- access to advanced coursework, including accelerated coursework as reported annually on State report cards consistent with ESEA section 1111(h)(1)(C)(viii);
- access in elementary schools to full-day kindergarten programs and to preschool programs as reported annually on State report cards consistent with ESEA section 1111(h)(1)(C)(viii);
- access to specialized instructional support personnel, as defined in ESEA section 8101(47), including school counselors, school social workers, and school psychologists, other qualified professional personnel, and school librarians; and
- per-pupil expenditures of Federal, State, and local funds reported annually on State report cards consistent with ESEA section 1111(h)(1)(C)(x).

As part of its review, a State must consider any inequities identified by LEAs and schools in the State as part of their development of comprehensive or targeted support and improvement plans, as applicable.

(ESEA section 1111(d)(3)(A)(ii); 34 C.F.R. § 200.23(a))

The State also may review and address other resource inequities, including any additional inequities that were identified by LEAs or schools, such as inequities related to the availability of instructional materials and technology, extracurricular activities or particular academic programs, and safe and appropriate school

buildings and facilities.

**E-38. What are examples of the types of additional improvement a State might initiate in an LEA or an authorized public chartering agency with a significant number or percentage of schools that are identified for comprehensive or targeted support and improvement?**

Consistent with State law (including State charter school law), a State may take action to initiate additional improvement in any LEA or in any authorized public chartering agency with a significant number or percentage of schools that are identified for comprehensive support and improvement and do not meet their exit criteria or a significant number or percentage of schools identified for targeted support and improvement. Examples of possible actions a State might take to initiate additional improvement could include:

- **LEA-level** actions, such as reducing the LEA’s operational or budgetary autonomy; removing one or more schools from the jurisdiction of the LEA; or restructuring the LEA, including changing its governance or initiating State takeover of the LEA;
- In the case of an **authorized public chartering agency**, monitoring, limiting, or revoking the authority of the agency to issue, renew, or revoke school charters; and
- **School-level** actions, such as reorganizing a school to implement a new instructional model; replacing school leadership with leaders who are trained for or have a record of success in low-performing schools; converting a school to a public charter school; changing school governance; closing a school; or, in the case of a public charter school, working in coordination with the applicable authorized public chartering agency, revoking or non-renewing the school’s charter consistent with State charter school law and the terms of the school’s charter.

(ESEA section 1111(d)(3)(B)(i); 34 C.F.R. § 200.23(c)(1))