

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT

Date: July 5, 2011

To: District Superintendents, School Superintendents, Title I Directors/Coordinators, Charter School Principals

From: Leon W. Hovish, Program Associate

Subject: NYSED Waiver Process on Use of Unexpended Title I-A 20% School Choice/SES Set-aside Funds

In reply to: 34 CFR – Section 200.48 Requirements

Public School Districts and Charter Schools that are required under Federal 34 CFR-Section 200.48 regulations to set-aside 20% of their Title I-A allocation for Public School Choice/SES must follow the documentation requirements described below if they wish to spend any of the unused portion of the 20% set-aside on other Title I allowable expenses. Districts that cannot document their Public School Choice/SES implementation efforts, are required under federal regulations to roll over the unused portion of funds to the following school year. This roll over amount is on top of the 20% set-aside required for the new school year.

Districts and Charter Schools must submit an FS-10A to the Grants Processing Unit (GPU) as usual, and include documentation (*a description of efforts without documents will be insufficient for approval purposes*) that you have taken the following required actions per 34 CFR Education – [Section 200.48] regulations.

Criteria that an LEA Must Meet to Spend Less than its 20% Obligation:

To spend less than the amount needed to meet its 20% obligation, an LEA must meet, at a minimum, the following criteria:

1. *Partner, to the extent practicable, with outside groups, such as faith-based organizations, other community-based organizations (CBO), and business groups, to help inform eligible students and their families of opportunities to transfer or to receive SES [§200.48(d)(2)(i)(A)].*

Acceptable Forms of Documentation: LEAs may provide copies of letters to community groups, memorandums of understanding, copies of brochures or leaflets that are distributed throughout the community, documentation of any presentations by the district to community organizations on the availability of Public School Choice and/or SES.

In those instances where a district has not partnered with outside organizations, reviewers may ask LEAs for a written plan to partner with such organizations in 2011-2012. The plan should include the names of specific community groups that the LEA will reach out to.

2. *Ensure that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES, including:*

- *Providing timely, accurate notice to parents.*
- *Ensuring that sign up forms for SES are distributed directly to all eligible students and their parents, and are made widely available and accessible through broad means of dissemination, such as the Internet, other media, and communications through public agencies serving eligible students and their families.*

Acceptable Forms of Documentation: LEA/School Parent Notification letters dated late summer or early fall, a copy of the LEA/School website page showing information on SES application availability and registration procedures, newspaper or magazine ads, documentation of ads run through radio or television.

3. *Ensure that eligible students and their parents have a genuine opportunity to sign up to transfer or to obtain SES, including:*

- *Providing a minimum of two enrollment “windows,” at separate points in the school year, that are of sufficient length to enable parents of eligible students to make informed decisions about requesting SES and selecting a provider [§200.48(d)(2)(i)(B)(1)(2)(3)].*

Acceptable Forms of Documentation: Copies of two different Public School Choice/SES Parent Notification Letters, with two different dates at distinct times of the year. (Note: LEAs with open enrollment still need to notify parents at least twice a year.)

4. *Ensure that eligible SES providers are given access to school facilities, using a fair, open, and objective process, on the same basis and terms as are available to other groups that seek access to school facilities [§200.48(d)(2)(i)(C)].*

Acceptable Forms of Documentation: Copies of written agreements between SES providers for the use of school facilities, district policies on the use of school facilities, a written description on how community groups can access school facilities when there is no policy.

LEA Responsibility to Document & Notify the State (SEA):

To spend less than the amount needed to meet its 20% obligation, an LEA must:

- *Maintain records demonstrating that it has met the criteria in [§200.48(d)(2)(ii)]; and*
- *Notify the State (i.e. Consolidated Application Reviewers assigned to review your application) that it has met the criteria in §200.48(d)(2)(i); and intends to spend the remainder of its 20% obligation on other allowable activities, specifying the amount of remaining funds [§200.48(d)(2)(iii)].*

Note: Your submission of the FS-10A satisfies the requirement that LEAs notify SED that they will be spending the funds on other allowable activities and what those amounts are (i.e. FS-10A Increase and Decrease columns). Without the proper *additional* documentation described above, that an LEA has fulfilled the other requirements under CFR 34 - Section 200.48, the Department will not be able to approve the FS-10A.

Directions for Submitting Report:

Submit the appropriate documentation showing that the LEA has fulfilled the 34 CFR Section 248 requirements with the FS-10A, to the Grants Processing Unit (GPU). In the district's cover letter instruct the GPU to forward the documentation with the FS-10A to the Consolidated Application Update reviewer assigned to the LEA. Once the reviewer has reviewed the documents, if the reviewer determines the documentation is sufficient to prove the LEA has met the criteria outlined above, the FS-10A will be approved. The application reviewer will then put copies of all documents into the district's Consolidated Application Update folder in the Grants Processing Unit.

Districts should keep a file folder of the submitted documents in case there are further questions from the assigned Consolidated Application Update reviewer. If the LEA is chosen for a Title I Desk Audit, On-site Targeted Review, or Coordinated Monitoring Review they will be required to provide these documents to the monitors.

Directions for Buffalo, NYCDOE, Rochester, Syracuse, Yonkers (Big 5):

NYSED Consolidated Application Update assigned reviewers are required to forward a copy of the Big 5 SES requested documentation to Leon Hovish, Program Associate, in the Title I School and Community Services office for final review and approval.

Nonpublic School Reminder Statement:

Districts that are provided the waiver approval by NYSED to expend their unused portion of Title I, Part A choice/set-aside funds on other allowable Title I, Part A purposes, are reminded that they must recalculate the private schools' proportionate share of those funds. This does not apply to set-aside funds from State or local funds, or Title I school improvement grant funds. It does apply to any unused Title I, Part A **BASIC GRANT** and Title I, Part A **ARRA** funds set-aside for choice/SES purposes. If private schools indicate that they are unable to use the additional funds during the remainder of the 2010-2011 school year, those funds are to be rolled over, on top of the private schools' 2011-12 Title I, Part A allocation.

Updated Information as of June 16, 2010: Any unused portion of the 20% Public School Choice/SES set-aside that is waived but not expended in 2010-11 and carried over into 2011-12, may be used for other allowable Title I-A purposes, other than Public School Choice/SES. In other words, LEAs who receive a waiver from their NYSED Consolidated Application reviewer do not have to add the unused 2010-11 SES set-aside on to the 2011-12 20% Public School Choice/SES set-aside, as required by 34 CFR Section 200.48.

Important Notice: LEAs that do not request a waiver of the 2010-11 Public School Choice/SES set-aside funds must roll over those unexpended funds on top of the 2011-2012-20% Public School Choice/SES set-aside funds [34 C.F.R.-§200.48(d)(ii)].

LEAs receiving this waiver are strongly urged to use these funds for the purpose of strengthening the area(s) in which the school(s) were identified as being in need of improvement. Funding efforts should be justified based on a thorough review of state and local assessment data.

Questions related to this requirement can be referred to Leon Hovish, Program Associate, at the Title I office by calling 1-(518)-473-0295.

cc: Ira Schwartz
Roberto Reyes