



**SENIOR DEPUTY COMMISSIONER OF EDUCATION – P-16**  
Office of Elementary, Middle, Secondary and Continuing Education  
Office of Higher Education

July 6, 2007

To: District Superintendents  
Superintendents of Public Schools  
Administrators of Charter Schools  
New York State Educational Associations  
Other Partners

From: Johanna Duncan-Poitier

Subject: Contracts for Excellence  
Update and Frequently Asked Questions and Answers

The following is the next in a series of documents provided to assist school districts required to complete Contracts for Excellence (C4E). In addition to the checklist attached to my June 25 correspondence, this memorandum provides a summary of the most recent discussions the Board of Regents have had regarding the Contracts for Excellence regulations at their June meeting, as well as an extensive outline of Frequently Asked Questions and Answers that the Department has received over the past several weeks.

The New York State Board of Regents requires school districts to use Contract for Excellence funds to increase student achievement, especially for students in need of additional support to meet State learning standards. School districts must target funds to students with the greatest educational needs, and give priority to schools with concentrations of such students. This new accountability program provides a tremendous opportunity to invest significant resources in new and innovative ways to help all students achieve greater success.

The Regents have promulgated regulations to implement the Contracts for Excellence. The regulations are available at:

[http://www.regents.nysed.gov/2007Meetings/April2007/0407-100\\_13-170\\_12.html](http://www.regents.nysed.gov/2007Meetings/April2007/0407-100_13-170_12.html). The Regents have indicated their intent to further strengthen the language in their emergency regulations to:

- Specify in greater detail that the Commissioner's approval will be based on a determination that contracts for excellence demonstrate that allowable programs selected by the district: (1) predominately benefit those students with the greatest educational needs, including but not limited to: (a) students with limited English proficiency and students who are English language learners; (b) students in poverty; and (c) students with disabilities; (2) predominately benefit those students in schools identified as requiring academic progress, or in need of improvement, or in corrective action, or restructuring and address the most serious academic problems

in those schools; and (3) are based on practices supported by research or other comparable evidence in order to facilitate student attainment of State learning standards. This change was endorsed by the Board of Regents at their meeting on June 26, 2007.

- Specify that the implementation of new or expanded career and technical programs is an allowable activity for middle school-high school restructuring activities and increased time on task, provided that schools' particular achievement needs are addressed and this predominately benefits students with the greatest educational needs.
- Specify that programs that use instructional technology may be considered for experimental programs provided they address schools' particular achievement needs and predominately benefit students with the greatest educational needs.
- Specify that after school programs are an allowable activity under programs that increase student time on task provided they address schools' particular achievement needs and predominately benefit students with the greatest educational needs.
- Specify that art and music programs are an allowable activity for middle school-high school restructuring activities and increased time on task, provided they address schools' particular achievement needs and predominately benefit students with the greatest educational needs.

Over the past several months, the Department has worked extensively with educational leaders, representatives of the Governor's office and the Legislature, professional organizations, researchers, and others from across the State and the nation to identify allowable programs and activities and to implement the Contract for Excellence. We appreciate all of the valuable input that has been shared. Throughout this process, educators and advocates have asked a number of important questions about allowable activities, budgeting, what it means to supplement or supplant, maintaining district effort, independent auditor certification, charter schools, and other key issues. The following questions and answers are based on the input we have received. This additional guidance is being provided to school districts to help you prepare your Contracts for Excellence for the 2007-08 school year. We hope this is helpful.

If you have additional questions or need more information, please contact the Office of School Operations and Management Services at [emscsom@mail.nysed.gov](mailto:emscsom@mail.nysed.gov) (518.474-6541). Thank you.

Attachment

cc: Members of the Board of Regents

# **Contracts for Excellence Frequently Asked Questions**

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## **Contracts for Excellence Frequently Asked Questions**

***Please Note:*** these questions are actual questions the Education Department has received. They have been paraphrased for clarity in some instances.

### **Contract for Excellence Calculation Example**

#### **1. How does NYSED determine the dollar amount that C4E districts must use for new programs?**

The amount of Foundation Aid that is restricted for new or expanded allowable programs is the district's Foundation Aid increase over the prior year less an inflationary adjustment, increased payments to charter schools, an amount allowed for maintenance of existing programs, and an amount allowed for experimental programs approved by the Commissioner. The following is an example of a Contract for Excellence calculation using the New York City School District.

<b>District Name</b>	<b>NEW YORK CITY</b>
2007-08 Foundation Aid	\$5,533,101,299
2007-08 Supplementary Educational Improvement Plan Grants	<u>\$0</u>
2007-08 Foundation Aid Base	<b>\$5,533,101,299</b>
2006-07 FOUNDATION AID BASE	<b>\$5,063,348,319</b>
Foundation Aid Base Increase	<b><u>\$469,752,980</u></b>
Year-to-Year Percent Change	9.3%
3% Increase over 2006-07 Foundation Aid Base	\$151,900,449
Increase in Charter School Base Tuition	\$60,000,000
Contract for Excellence Amount	<b><u>\$257,852,531</u></b>
Lesser of 25% of Contract for Excellence Amount or \$30 Million for ongoing programs	\$30,000,000
15% May Be Used For Experimental Programs	\$38,677,880
Restricted for New/Expanded Allowable Programs	\$189,174,651

## **Contracts for Excellence Basics**

### **2. What are Regents expectations about districts' compliance with C4E requirements?**

**A:** The Regents expect districts to implement C4E in a way that fulfills the intent of the legislation: to improve student achievement, and predominately benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils. Districts must target funds to students with the greatest educational needs, including students with disabilities, students with limited English Proficiency or who are English language learners, and students living in poverty, and give priority to schools serving concentrations of such students. Programs and activities that are implemented as part of the C4E must be aligned with schools' achievement needs and have the greatest likelihood of positively impacting student achievement.

### **3. Who is required to file a Contract for Excellence (C4E) with the State Education Department?**

**A:** Districts which receive a Foundation Aid increase over the prior school year of at least \$15 million or 10 percent, whichever is less, and in which at least one school is currently identified as requiring academic progress, in need of improvement, in corrective action, or in restructuring (low-performing schools), must complete a contract for excellence. In addition, any district that receives a Supplemental Educational Improvement Plan Grant must file a contract for excellence. In 2007-08, 56 districts must complete contracts for excellence. See a list of these districts at: <http://www.emsc.nysed.gov/attachmenta.htm>.

### **4. How will districts file C4E's?**

**A:** Every district required to complete a C4E must submit to the Department a contract on a form prescribed by the Commissioner and consistent with Commissioner's regulations. The Department has developed a straightforward and streamlined web-based system for districts to file contracts. In the first year, the system requires the Superintendent of Schools to complete the C4E.

### **5. What is the timeline for submitting and approving Contracts for Excellence?**

**A:** For the 2007-08 school year, districts must submit their C4Es by July 15, 2007. The Department will review these and inform districts no later than August 15, 2007 whether the C4E is approved.

### **6. Will the Department publish examples of best practices that districts have used to improve student achievement?**

**A: Yes**, current information regarding best practices will be posted on the Senior Deputy Commissioner for P-16 Education web site ([www.emsc.nysed.gov](http://www.emsc.nysed.gov)).

**7. What is the role of the school board regarding the contract for excellence?**

**A:** The school board is responsible for setting policy, and has a central role in determining how contract for excellence funds will supplement local funds and be targeted to improve student achievement. However, the statute requires the Commissioner and not boards of education to formally approve the district's C4E.

**8. Can a district return a portion of its Foundation Aid increase to the State and in that way, avoid the C4E requirement? For example, a district with one school in need of improvement receives a 10.4 percent increase in aid. Could the district return .5 percent of the aid to and not complete a C4E?**

**A: No.** There is no provision in law to allow this.

**9. What if one of my schools is currently identified as requiring academic progress, in need of improvement, in corrective action, or in restructuring, but will go off the list as of June 30?**

**A:** The State Education Department interprets "currently identified" to mean identified as of the time official Foundation Aid allocations become known for each school year, which for the 2007-08 school year was April 9, 2007, the statute's effective date. The statute does not afford the Department any latitude for waiving the requirement that districts having at least one such currently identified school must complete a contract for excellence. Districts that improve academic performance and are no longer on a school improvement list will receive a letter from the Department recognizing their achievement.

**10. Are there provisions for exempting districts which made adequate yearly progress last year (2005-06) but need one more year to get off the list of schools in need of improvement?**

**A: No**, for the reasons set forth above. However, districts will be able to present achievement gains as supporting evidence in their contracts.

**11. Will I be asked to provide academic indicators on my C4E? If yes, why?**

**A: Yes.** You will be asked to provide certain baseline data to measure the area you are expanding for the base year and projected (2007-08) year. For example, if you choose class size reduction, you must state the class size for the targeted students in 2006-07 (e.g., 26) and the planned class size for 2007-08 (e.g., 22). You will also be asked to identify research and have an evaluation plan if you choose the

experimental option for up to 15 percent of your contract amount. A major direction of C4E is to connect resources to achievement. The goals of this accountability effort are to tell the public where the money is spent, to demonstrate the money was spent on programs that have a track record of contributing to student achievement growth, and to actually demonstrate that the money resulted in increased learning.

**12. What are the criteria for approval of contracts for excellence?**

- A Approval will be given to contracts demonstrating to the satisfaction of the Commissioner that the allowable programs selected by the district: (1) predominately benefit those students with the greatest educational needs, including but not limited to: (a) students with limited English proficiency and students who are English language learners; (b) students in poverty; and (c) students with disabilities; (2) predominately benefit those students in schools identified as requiring academic progress, or in need of improvement, or in corrective action, or restructuring and address the most serious academic problems in those schools; and (3) are based on practices supported by research or other comparable evidence in order to facilitate student attainment of State learning standards.

**13. How will compliance or lack of compliance with a C4E be determined?**

- A Compliance with statutory and regulatory requirements will be determined by Department approval and independent auditor certification that school districts have used contract funds to supplement and not supplant existing district effort. In addition, the law requires affected school districts to assure that procedures are in place by which parents or persons in parental relation may bring complaints concerning implementation of the district's contract for excellence, including procedures for filing complaints and for appeals to the board of education, or, in the New York City school district, to its Chancellor. The law further provides that the board or Chancellor's determination may be appealed to the Commissioner of Education pursuant to Education Law section 310.

**14. If the Department determines that a C4E is not acceptable what happens?**

- A: The Department will provide detailed guidance to the affected school district explaining why the contract does not meet requirements and what aspects the district can amend to gain compliance. Department staff is on-hand to answer questions and offer advice to impacted districts as they develop their C4Es.

**Allowable Programs and Expenses (general)**

**15. How may C4E districts use Foundation Aid?**

- A: The statute requires districts subject to a C4E to expend the portion of their Foundation Aid increase in excess of 103 percent of base year funding and the

increase in basic charter school tuition payments on allowable programs and activities to improve student achievement. The law specifies five categories of allowable programs and activities:

- class size reduction;
- increased time on task;
- teacher and principal quality initiatives;
- middle and high school restructuring; and
- full-day pre-kindergarten and kindergarten.

With prior approval of the Department, districts may spend up to 15 percent of the contract amount on other “experimental” programs to improve student achievement. Examples of experimental programs could be an interval formative assessment system, Quadrant planning for a large city district, a new math series PK-12, Reading First, IEP Direct with a district facilitator to strengthen programs for students with disabilities, etc. Experimental programs must have a research and theoretical basis, involve a partnership with an institution of higher education or other organization with extensive research experience and capacity, and include an evaluation plan based on empirical evidence to assess the impact of the program on student achievement.

In the 2007-2008 school year, districts may use up to \$30 million or 25 percent of the contract amount, whichever is less, to maintain investments in existing programs and activities in the above categories (See question #48 below for more information on "maintenance of existing programs".)

**In all cases**, districts must also affirm that the new or expanded programs shall predominately benefit students with the greatest educational needs including, but not limited to, students with limited English proficiency or who are English language learners, students in poverty, and students with disabilities.

Any or all of these programs can be the focus of a district’s C4E. C4E money cannot supplant but rather, must supplement current funding. Foundation Aid not subject to the contract may be used for any legal purpose.

**16. Is the three percent inflation factor (i.e. a district's Foundation Aid increase in excess of 103 percent of base year funding) based upon the 2006-07 Foundation Aid or the 2007-08 Foundation Aid?**

**A:** The three percent inflation factor is applied to the 2006-07 foundation aid amount.

**17. Chapter 57 of the Laws of 2007 identifies a number of allowable programs and activities that districts can implement to comply with the C4E requirement. Can a district anticipate that its C4E will be approved as long as it includes any or all of these?**

**A: Not necessarily.** The purpose of the law and regulation is to improve student achievement, and predominately benefit students with the greatest educational needs and students in low performing schools. Therefore, any spending of C4E dollars must come with a high expectation and likelihood that these goals will be achieved. The Department recommends that school districts plan their C4E expenditures with regard to three issues:

- Are the planned programs and activities likely to improve the specific student achievement needs of schools in the district?
- Will expenditures predominately benefit students with the greatest educational needs and schools with concentrations of such students?
- Will the expenditures supplement and not supplant existing district effort?

**18. Is buying computer hardware considered an allowable C4E expenditure? If so, is it the total amount or only the increase from the previous year?**

**A: In certain cases the purchase of computer hardware may be allowable.** Total technology expenses are allowable C4E expenditures if they are an incidental component of one of the five allowable programs and activities, or an approved experimental program, and if the district can make a case that it would improve student achievement, predominately benefit students in low performing schools and students with the greatest educational needs, and supplement but not supplant current district effort.

**19. In the Regents P-16 Plan for Action (<http://usny.nysed.gov/summit/p-16ed.htm>) there is specific reference on page 5 to increase the literacy of children and parents by expanding proven programs in libraries. It refers to librarians as being the critical piece to help strengthen the reading and writing for our children. In our district we do not have librarians in all buildings. We would propose to use some of the funding under the Contract to be able to staff each of the buildings' libraries, as well as give professional development to librarians to help them develop instructional strategies to reinforce and/or teach reading. Where would this fall under the C4E?**

**A:** In order for this to be an allowable expense, the district would have to make a compelling case that it relates to one of the five allowable programs and activities or an approved experimental program and will improve student achievement in the district. The additional librarians must be used predominantly for students in low performing schools and students with the greatest educational need, and supplement but not supplant existing district effort.

**20. If new programs are being added to support increased academic rigor (e.g. International Baccalaureate Program; Project Lead the Way; Advanced Placement), can those costs be offset by Foundation Aid?**

**A:** The school district must make a compelling case that these programs would increase student time on task or restructure the middle or high school to improve student achievement and would predominately benefit students in low performing schools and students with the greatest educational needs. Associated training might also be deemed a teacher and/or principal quality initiative.

21. Could student fees such as International Baccalaureate or Advanced Placement fees be included?

A. Yes, if covering such fees was necessary to ensure program viability, if the programs will improve student achievement and predominately benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils, and provided the Foundation Aid would supplement and not supplant district effort.

### **Class Size Reduction**

**22. What are the class size reduction numbers for New York City as defined by the Commissioner?**

**A:** The Commissioner will appoint an expert panel later this year and charge it to conduct a review of existing class size research and make a recommendation to the Commissioner. The Commissioner, after consideration of the recommendation, will prescribe prekindergarten through grade 12 class size targets for school years 2008-2009, 2009-2010, 2010-1011 and 2011-2012. For the 2007-2008 school year, New York City will base its class size targets on its own plan for class size reduction.

**23. Class Size Reduction in the rest of the State. Example: We are a district in need of improvement with a need for additional teachers at the high school level for English and Social Studies. The district believes that a lowering of class sizes in these areas would enhance literacy acquisition for our most at-risk population. Would extra teachers in these areas at the high school level be allowable?**

**A: Yes,** a C4E should specify for this program how money is being spent and how that expenditure will improve the manner in which the reduced class size will enhance instruction (e.g., greater individualization of instruction, more intensive interventions for some students) and thereby increase student achievement, predominantly benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils and supplement and not supplant existing district effort. Conversely, if a middle school is identified it would be permissible to use a portion of funds to reduce class size at the elementary level if the district could demonstrate in its C4E how lower class size will translate into improved results in the middle grades.

**24. Class Size Reduction Funding – Example: Is it permissible to use Foundation Aid to reduce class size at the middle and/or high school level by increasing the number of sections of English Language Arts and/or Math? The intent here would be to reduce class size from, for example, 28 students to 23.**

**A: Yes,** a C4E should specify for this program how money is being spent and how that expenditure will improve student achievement and predominantly benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils. Conversely, if a middle school is identified it would be permissible to use a portion of funds to reduce class size at the elementary level IF the district could demonstrate in its C4E how lower class size will translate into improved results in the middle grades.

**25. Will class–size definitions be part of the Regulations currently being worked on?**

**A: No.** More precise definitions of class size requirements will follow the work of an expert panel that the Commissioner will appoint during the 2007-08 school year to conduct a review of existing class size research and make a recommendation on class sizes to the Commissioner. The Commissioner, after consideration of the recommendation, will prescribe prekindergarten through grade 12 class size targets. The result of this work is expected to affect the C4E beginning with the 2008-09 school year.

### **Increased Time on Task**

**26. Does increasing after school positions and/or expenditures qualify as increased time on task (promoting student engagement to improve performance)?**

**A: Yes,** if you can make a case that it will improve student achievement, will predominately benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils and will not supplant existing district effort.

**27. Lengthened school day. Example: The district is hoping to fund an after school program focusing on literacy in each of our elementary schools. The Department's previously issued guidance only specifically mentions middle and high school. Would this exclude funding work at the elementary school? If allowable, could we include transportation for this program?**

**A:** The intent is to allow increased time on task activities at the elementary level as well. Transportation is an allowable expense provided it is necessary for the implementation of a new or expanded allowable program or activity; the

program/activity will improve student achievement, predominately benefit students with the greatest educational need and students attending low-performing schools with concentrations of such pupils; and the transportation is not otherwise aided in the current year.

**28. Lengthened school year. Example: The district is hoping to fund an early intervention/kindergarten readiness program in the summer for students who will be entering kindergarten in the fall. The district would also like to design a summer school program for elementary school children who are at risk to better prepare them for the next grade level. This program would identify areas of weakness and work to reinforce content and skills. In the guidance it only specifically mentions middle and high school. Would this exclude funding work at the elementary school? If allowable, could we include transportation for this program?**

**A:** The Department will allow lengthened school year programs at the elementary level, provided the district makes a compelling case that it will improve student achievement and predominately benefit students with the greatest educational needs and students attending low-performing schools with concentrations of such pupils. Additional transportation costs related to an allowable activity or program may be included as part of the contract if it is not otherwise aided in the current year.

**29. Increased Time On Task, Lengthened School Year. Example: Our district would like to offer a readiness program for incoming Kindergarten children. Will this be permissible?**

**A: Yes,** if this can be justified as improving student achievement through increased time on task or extended school day, and predominantly benefits students with the greatest educational needs and students attending low-performing schools with concentrations of such pupils.

**30. Our district would like to offer summer programming for children in primary grades for reading, math, and literacy development useful in communication (speech, basic technology, other). Will this be permissible?**

**A: Yes,** it would be permissible under more time on task if it supplements the existing program and predominantly benefits students with the greatest educational needs and students attending low-performing schools with concentrations of such pupils.

**31. Will the Department be setting benchmarks for length of school day/Length of school year?**

**A:** There will not be specific benchmarks, but schools will be required to justify the extended time based on research. Districts may want to look at a significant increase in instructional time, such as, a phase-in to a 200-day school year.

## **Pre-K and Kindergarten**

**32. Can Universal Preschool (UPK) dollars be counted toward the C4E provisions?**

A: **No.** UPK dollars are a separate categorical aid intended only for the purpose of providing pre-k services.

**33. Can C4E funds be used to increase current 1/2 day programs to full day and then be considered new programming?**

A: **Yes.** Foundation Aid can be used to fund expansion of half day to full-day Prekindergarten or kindergarten. The district will need to show how this expansion will predominately benefit students with greatest educational needs and supplement and not supplant existing district effort.

**34. Do 10 percent of UPK dollars still need to be allocated to community based providers or can all classes be operated within the District?**

A: **Yes,** the 10 percent requirement still applies.

**35. We receive UPK funding in our district. We use approved community sites for the district's UPK sites. These locations are monitored by the district. Would it be allowable under the C4E to use funding for transportation for some of our children who are unable to provide their own? We have excellent participation for our families with four year-olds but the district knows that some of the population that we would like to have served is unable to provide transportation to the site and therefore cannot take advantage of the program. The question is, "Can transportation be funded for our UPK programs under the C4E if the UPK sites are community sites, rather than in-district?"**

A: It may be possible for a district to fund UPK transportation if that is determined to be an effective means of improving student achievement in the district and is associated with an allowable program or activity, and the transportation is not otherwise aided in the current year.

## **Teacher and Principal Quality Initiatives**

**36. If the district fills teaching vacancies with teachers that have more credited years of teaching experience or other indicators of quality, is it permissible to use this aid to make up the salary differential?**

**A: Yes.** If the additional teachers are to fill vacancies to teach in low-performing schools and in schools in which students with the greatest educational needs will predominately benefit, C4E dollars can be used as an incentive within the district to fill vacancies in such schools. The district would be enhancing the quality of the teaching workforce by ensuring that the most highly qualified teachers benefit students with the greatest educational needs. Districts interested in doing this should consult with their school attorney regarding the impact any applicable provisions of their collective bargaining agreement may have on their ability to take such actions.

**37. Is it permissible to add a new position, Director of Staff Development, that would be able to work with teachers in the district on an on-going basis to improve instructional practice?**

**A: Yes.** This expenditure could be deemed a teacher quality initiative. Research clearly demonstrates professional development of teachers is a cornerstone to student success. Enhancing that element of a school district's program in a manner that would improve student achievement would be an acceptable use of C4E money, provided that the Director's time predominantly benefits students with the greatest educational needs and students in low-performing schools with concentrations of such pupils.

**38. Suppose a district has no instructional coaching or mentoring capacity in social studies and has limited capacity in the other core subject areas. Would a facilitator or specialist in social studies be approved as is already the case for reading, math, and science?**

**A: Yes.** Coaches are allowed in subject areas necessary to meet state learning standards provided they predominantly benefits students with the greatest educational needs and students in low-performing schools with concentrations of such pupils.

**39. The district is looking at broadening and expanding its professional development program to incorporate required training for beginning teachers. Is it correct to assume that a "beginning teacher" would be one that is probationary? Is it permissible to add a new position, Director of Staff Development, who would be able to work with teachers in the district on an on-going basis to improve instructional practice?**

**A: Yes,** provided the Director's work predominantly benefits students with the greatest educational needs and students in low-performing schools with concentrations of such pupils.

### **Middle School/High School Restructuring**

**40. If a new Alternative School Program will be added to better meet the needs of at-risk secondary students, in addition to hiring certified**

**content area teachers, is it permissible to add administrative support to manage this “school within a school?”**

**A: Yes.** Such a change would likely fall under the teacher/principal quality or middle/high school restructuring rubric. The district would need to demonstrate how this structure would improve student achievement and predominately benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils. The district would also need to demonstrate that any administrative support represents an addition to the district's capacity versus a transfer of an administrative line that previously serviced a program that has been reduced in size or eliminated.

**41. If the district supports sending additional students to high quality career and technical education programs (CISCO, New Visions Programs, etc.) at BOCES, is it permissible to cover the local share of these costs through Foundation Aid?**

**A: Yes.** This may be allowable as part of middle/high school restructuring provided the programs improve student achievement and predominantly benefits students with the greatest educational needs and students in low-performing schools with concentrations of such pupils.

**42. In looking at restructuring at the middle school level, for example, if a district developed a new scheduling model that provided for increased instructional time in math and English and added new reading teachers to support literacy at the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade levels, is it permissible to also include additional staff in other areas needed to make the schedule work? This might include the addition of technology, health and music teachers. Additions in these special content areas would allow an integrated approach to literacy across content areas as outlined in the *Essential Elements of Standards-Focused Middle Schools*.**

**A: Yes,** provided that the district can identify how the changes would successfully improve student achievement and predominantly benefit students with the greatest educational needs and students in low-performing schools with concentrations of such pupils.

**43. The district has a poverty level approaching 40 percent. Is the hiring of a social worker at the elementary level and or a district-wide psychology intern acceptable to work with many families that are struggling?**

**A: Yes,** if it can be related to one of the allowable programs and activities, or gain approval from the Department as an experimental program, that will predominately benefit students with the greatest educational need and students in low-performing schools with concentrations of such pupils. Parental involvement is mentioned in two allowable programs: full-day Pre-k and Kindergarten and middle/high school

restructuring. The Department supports the use of parental involvement in elementary programs provided this is targeted to low-performing schools and students with the greatest educational needs. To the extent a district can enhance that involvement and improve student achievement at any level, the expense would be permissible.

### **Supplement not Supplant**

**44. Can Title IIA professional salary and benefit expenditures be moved to general fund expenditures as C4E new program allowances, thus allowing Title IIA funds to be used for other allowable expenditures?**

**A: No.** If this means can a district pay for expenditures paid for in 2006-07 out of Title IIA funds with Foundation Aid in 2007-08 under the C4E, this is not approved since it would be supplanting district effort.

**45. If salaries/positions will be eliminated due to grants that are ending "permanently" and only district funds could be utilized to maintain them, would the Department consider these as new programs for Class Size Reduction, Increased Time on Task, Teacher and Principal Quality Initiatives, Middle School and High School Restructuring that could be funded with C4E funds?**

**A: Yes.** If a contract ends, C4E funds could be used to continue to fund the program provided it otherwise met C4E requirements. It is not considered supplanting if the activity was funded with categorical funding that is discontinued.

**46. If other grant "rules" change forcing the District to make a staffing/program change, would this be considered supplanting to allocate those expenditures to the C4E funding requirements?**

**A:** Department staff are available to discuss unique circumstances on a case-by-case basis. However, this circumstance sounds like supplanting.

### **Maintenance of Existing Programs**

**47. What constitutes "maintenance of existing programs?"**

**A:** Activities from the list of allowable programs and activities that have already occurred in the 2006-2007 school year are existing programs. These include: class size reduction; increased time on task; teacher and principal quality initiatives; middle school and high school restructuring; and full-day pre-kindergarten and kindergarten. These activities can be maintained in the 2007-2008 school year using up to 25 percent of the contract amount or \$30 million dollars, whichever is

less<sup>1</sup>. For 2007-08, these funds are exempt from the requirement that districts must use C4E funds to supplement and not supplant district effort.

**48. What costs are considered in the program maintenance area—“total” cost or “incremental” cost?**

**A: Total cost.** Foundation Aid can be used to support the entire program. However, the law is very clear that moneys are not to supplant but rather to supplement district effort. So, if a district has a pre-existing program to reduce class size, Foundation Aid beyond the 25 percent/\$30 million allowed for maintenance cannot be used to reduce the local contribution for programs implemented in 2006-07. For programs funded out of the 75 percent or balance (the Contract Amount), the money must be used for new or expanded programs. Further, programs funded with the 25 percent/\$30 million maintenance amount must be related to one of the C4E allowable programs and activities.

**49. Can a small schools initiative that was begun two years ago be considered as “maintenance”? Is the money for those programs the total cost of the counselors added since then or just the incremental cost each year?**

**A:** The law allows school districts to use 25 percent/\$30 million of their contract funds to maintain district programs operating in the base year (2006-07). The amount can be used to support 2007-08 total costs, not just the incremental costs. The balance, or 75 percent of contract funds, must be used on new or expanded programs, thus limiting expenditures to increased costs. This restriction does not apply to program maintenance involving 25 percent/\$30 million of the contract amount.

**50. Is there a definition or clarification for the 25 percent/\$30 million limit of Foundation Aid that can be used on existing programs? For instance, if a district has an existing early childhood class size reduction program, can the 25 percent/\$30 million be applied to the entire cost of the program or just to the increase in the cost of the program?**

**A:** The entire cost of the program can be funded with C4E funds up to 25 percent of the contract amount.

**51. If a district has already implemented some of the school improvement activities specified in the law, can it use C4E money to maintain those programs?**

**A: Yes.** The law provides that for the 2007-08 school year, districts *may use up to 25 percent of the Foundation Aid increase in excess of 103 percent of base year aid, or*

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<sup>1</sup> The contract amount is defined as the Foundation Aid increase above 103 percent of base year funding, less the increase in the basic charter school tuition.

*\$30 million, whichever is less, to maintain previously established programs in one of the specified allowable programs and activities.*

## **Budgeting**

**52. Did the budget presented to the public have to include the appropriations for the contract expenditures?**

**A: Yes.** School districts should have included C4E appropriations in the budget that was presented to the voters on May 15, 2007. Expenditures should be accounted for in the district's General Fund.

**53. How are districts supposed to account for C4E expenditures? Are general categories appropriate? Is it necessary to identify specifics in 2006-07 as the "baseline" for 2007-08? I have 3 line items – salaries /benefits/contract expenses. I plan on a redistribution through budget transfers as we expand on the details. Is that appropriate?**

**A:** School districts must track C4E expenditures and be able to establish a clear audit trail. These expenditures should have a clear descriptor that will allow them to be identified for C4E reporting. They will be part of the "regular" total expenses that districts normally report to the state at the end of each fiscal year. Districts will need to submit expenditure numbers for 2006-07 where appropriate. Budget transfers will be appropriate in accordance with Commissioner's Regulations.

**54. Can school districts change their C4E budgets after the Commissioner approves it? If yes, what is the process?**

**A: Yes.** The process is the same at the district level as any budget transfer. Changes must be approved by the Board of Education in the district's budget status report. In terms of Department approval, districts should send an e-mail to [EMSCSOM@MAIL.NYSED.GOV](mailto:EMSCSOM@MAIL.NYSED.GOV) requesting approval for amendments to an approved C4E.

**55. Are school district auditors aware of the auditing requirement for C4E districts? Have there been discussions with the auditors regarding the process and their roles?**

**A: Yes,** auditors are aware of the auditing requirements. The State Education Department has shared with the Certified Public Accountant School Advisory Group the regulations and guidance material and will share a certification statement for auditors to complete to ensure understanding and compliance. .

**56. Given that state aid figures can change for a school district, will the list of C4E school districts for 2007-08 change as well?**

**A: No.** The State Education Department will hold districts to C4E requirements based on data available on April 9, 2007, the effective date of the statute.

**57. In order to use all the new State Aid, will districts be forced to spend more than already in their budgets?**

**A:** Districts may not spend more than the budget authorized by the voters or the contingent budget adopted by the board of education. School districts can increase their budgets for unforeseen ordinary contingent expenses consistent with the requirements of Education Law section 1718. Department staff will work with school administrators to ensure that they are aware of all the ways they may use C4E funds.

**58. My budget was approved by the voters in May. My contract will be submitted by July 15 and approved by August 15. If my contract requires me to spend additional money for new or expanded programs beyond what the voters approved, am I allowed to increase my budget?**

**A: Yes.** Although the Department has consistently communicated the need for school districts to budget C4E expenditures in 2007-08 budgets presented to the voters, and districts are expected to make every effort to contain spending within available revenues, school districts may increase their budgets for unforeseen ordinary contingent expenses consistent with the requirements of Education Law section 1718.

**59. What happens if a district subject to C4E requirements is required to adopt a contingency budget? Will the district be permitted to spend the funds subject to C4E requirements?**

**A: Yes.** The law provides that increases in Foundation Aid are to be deemed grants in aid and thus would be exempt from contingency budget limitations for all districts operating under a contingent budget.

**60. Can any of the funds be used for approved summer school programs?**

**A: Yes,** provided that the program predominantly benefits students with the greatest educational needs and students in low-performing schools with concentrations of such pupils.

**61. Will the 2007-08 costs become baseline for future years?**

**A: Yes,** 2007-08 expenditures will become baseline expenditures for 2008-09.

### **Eligibility**

**62. There is a large variation in the academic performance of districts required to file a contract for excellence. Why?**

**A:** Because the C4E use state and federal improvement status as an indicator of student achievement and there is a large variation in districts that are identified by these systems. As a result, there are many different types of districts within the group of districts subject to C4E requirements. Some may have a relatively high performance index but a low participation rate in one or more examinations. Others may have more chronic student achievement problems.

### **Independent Auditor Certification**

**63. Is there any guarantee that State Education Department guidance, for example, allowing flexibility in meeting the requirements for a certain allowable program, will be certified as appropriate and correct by a district's independent auditor?**

**A:** The Department is working with school auditors to ensure they are aware of their role and the guidance provided by the Department.

### **Charter Schools**

**64. How will districts calculate, or know, the amount of payments to charter schools that can be deducted from the calculation to determine the appropriate amount of C4E expense for new or expanded programs?**

**A:** If districts have charter schools they will be allowed to subtract the projected charter school tuition increase for 2007-08 (as shown in your approved or contingency budget) from the final Contract amount. This amount is not subject to Contract for Excellence requirements. There will be an entry on the C4E application for this deduct.