



## National Alliance for Public Charter Schools

**To: Interested Parties**

**From: R. Brooks Garber, Federal Policy Director**

**Subject: New York Race to the Top Legislative Proposal and Charter Schools**

**Date: January 17, 2010**

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### General Overview

A review of the draft New York Race to the Top legislative proposal, number 15400-05-0, makes it clear that although efforts may be underway to improve the competitiveness of NY for a Race to the Top grant (R2T), **in reality this proposal would be a significant step backwards for the state's charter school law and the state's scoring on R2T.** It would substantially weaken a law that has been nationally recognized for its sound authorizing practices and its fostering of a high quality charter sector. **Ultimately, this proposal would decrease the state's chance of winning a R2T grant, and the amended charter school provisions could cost the state upwards of 50 to 100 points on its R2T application (For a complete breakdown of the points at risk, see Appendix I).**

First, although the legislation would raise the state charter cap by 200 schools, it still falls short of the R2T's requirements around charter caps. For a state to earn the most points possible under the charter cap criteria (F(2)(i)), the state must not have in place a cap **that in any form or fashion limits the number of charter schools to less than 10% of the total public schools in the state.** Therefore, to earn the most points possible, the state needs to AT LEAST lift its cap to allow for 454 charter schools, or 1 in 10 public schools in the state, and cannot restrict charter schools by geographic density.

The new provisions amending the authorizer policies would dramatically alter NY's current national model for quality charter authorizing. This would also hurt NY's "State Reform Criteria" section of its R2T application. State Reform Criteria examine past success, and although NY would still be able to highlight the success of the state's charter sector, this proposal dramatically alters that law, and will make it difficult for reviewers to fully reward NY with either State Reform or Reform Plan criteria points.

Effectively eliminating both the State University of New York (SUNY) and the direct ability of the local school districts (including the NYC Chancellor and his Office of Charter Schools) to control their own chartering process would move the state in a direction entirely counter to the

R2T's incentives to create environments conducive to the growth of high quality charter schools (F(2)(i)). Further, the removal of local authorizing will likely cost the state LEA support for its R2T application, most noticeably the largest school district in the nation, New York City.

The new provisions dictating additional unique steps before public charter schools can have facilities access would directly contradict the R2T application which asks about state policies or burdens placed upon public charter schools that are not placed upon traditional public schools (F(2)(ii)).

Also, the new turnaround language does not reference public charter schools. Although it enables new entities to turn around struggling schools, by omitting charter schools from the language, the legislation fails to completely meet the R2T criterion for turnarounds (E(2)(ii)).

### **Bill Analysis**

As mentioned in the overview, there are key overarching changes included in this proposal that will decrease the state's chances for an R2T grant. The following is a more complete analysis of the legislation as well as the specifics on how the new language will count against the state in its R2T application.

#### ***F(2)(i) Concerns, Caps (R2T points at risk = 8)***

In terms of lifting the cap, the R2T application is clear. To receive the most points under the cap criteria F(2)(i), a state must have a cap that AT LEAST enables more than 10% of a state's public schools to be charters. Thus, lifting the cap from the current number of 200 to 454 (or 10% of schools in state) would be the only way to earn the highest point allotment possible. This is clear in the application package's note to reviewers, specifically:

“High points are earned if the State either has no cap on the number of charter schools, or it has a “high” cap (defined as a cap such that, if it were filled,  $\geq 10\%$  of the total schools in the State would be charter schools); and the State does not have restrictions, such as those referenced in the “note to reviewers” below, that would be considered even mildly inhibiting (Appendix II has the complete charter criteria from the R2T application, including all note's to reviewers).”

Furthermore, the additional restrictions referenced above refer to types of caps on schools, so any attempt to restrict certain types of charters (start-ups, conversions, turnarounds, etc....) would count against the application. The same applies with any attempts to cap schools based upon district expenditures, geographic restrictions, and so forth. Thus, the proposed competitive bidding process would likely count against the state because not all school districts would be able to authorize their own charter schools; and successful charters looking to expand would be at a severe disadvantage because of uncertainty in the process of authorization.

The amendments on pg. 4 starting at line 22 enabling different procedures for conversions schools vs. startups would also count against the state application because they would apply different restrictions to one type of charters vs. another. Pg. 6 line 5-6, the restriction on private school conversions also will hurt the state application; again the state is prohibiting a certain type of conversion. Pg. 11, line 21, the language around new charter schools being capped vs. conversions being uncapped will directly contradict the R2T application and clearly decrease the points earned during the review process.

Unless the proposal amends these references, it is highly unlikely the application will score well under the R2T caps criteria.

***F(2)(i) Concerns, Effectively Inhibiting Growth (R2T points at risk = 8)***

Although F(2)(i) directly address rigid restrictions on charter growth like caps, it also enables reviewers to evaluate a state's other support(s) for charter schools, specifically if a state "effectively inhibits the growth of high performing charters...." The efforts to effectively eliminate the authorizer role of SUNY and other effective local district authorizers, the new competitive bidding process, and the lack of clarity around the growth of successful charter schools all will likely be viewed as new policies put in place that effectively inhibit high quality charter growth.

Both SUNY and the Chancellor of NYC are considered national exemplars of effective charter school authorizing. Any attempts to restrict or outright remove their authorizing ability will be in direct contradiction to this criteria and will count against NY's application. In fact, the US Department of Education has singled out both SUNY and the NYC Office of Charter Schools as national role models for effective charter school authorizing. In its *Innovations in Education* Publication "*Supporting Charter School Excellence Through Quality Authorizing*<sup>1</sup>," the Department highlights how these authorizers work and encourages other authorizers across the country to learn from their practices. Although the Regents may be a qualified authorizer, they have not been directly highlighted by the US Department of Education, and as such the efforts to effectively remove SUNY and/or the NYC's Office of Charter Schools, both nationally known and recognized authorizers, will contradict ED's R2T criteria and its own previous policy positions on effective authorizing.

The new competitive bidding process is unnecessary and does not earn the state any additional R2T points, nor ensure the growth of high quality charters. In fact, the provision will make it harder for the replication and expansion of successful schools due to the undefined language in the bill. (Furthermore, this likely jeopardizes new potential funding from the Federal Charter Schools Program, which now can use up to \$50 million to support the replication and expansion of successful schools.) Specifically, on pg. 13, lines 13-22 (*emphasis added*):

"The Regents "shall develop" the RFPs in a manner that seeks to locate charter schools in a "region" where there may be lack of access to "alternatives" (undefined) or where "access to charter schools would provide *new alternatives* within the public education system that would offer the *greatest educational benefit* to students."

Furthermore, Pg. 12, line 5-6, the addition of a competitive bidding process might be a reference to the "Contracting for Services" guidance in the R2T application, BUT does not earn any points for applications, nor make sense in the charter authorization process. The following is the language in the R2T application concerning contracting:

XV. CONTRACTING FOR SERVICES

"Generally, all procurement transactions by State or local educational agencies made with Race to the Top grant funds must be conducted in a manner providing full and open competition, consistent with the standards in Section 80.36 of the Education Department

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<sup>1</sup> Innovations In Education: Supporting Charter School Excellence Through Quality Authorizing:  
<http://www.ed.gov/ncib/choice/charter/authorizing/index.html>

General Administrative Regulations (EDGAR). This section requires that grantees use their own procurement procedures (which reflect State and local laws and regulations) to select contractors, provided that those procedures meet certain standards described in EDGAR.

Because grantees must use appropriate procurement procedures to select contractors, applicants should not include information in their grant applications about specific contractors that may be used to provide services or goods for the proposed project if a grant is awarded.”

This guidance is not a point scoring criterion, like F(2)(i), but a direct reminder to states not to violate their procurement policies. The competitive bidding process, if it is an attempt to earn NY additional points, could count against the state as a policy that effectively inhibits the growth of successful charter schools. First, you have effectively removed nationally known high quality authorizers (SUNY and NYC Office of Charter Schools). Second, you have introduced a new bureaucratic element into the authorizer process and added a new element of inconsistency because from year to year there is nothing to guide the Regents process for administering the RFP nor which districts will win the power to recommend charters be authorized. By conducting this competitive bidding process you are arguably EFFECTIVELY inhibiting quality charter growth. Conducting a competitive bid process does not ensure the actual oversight of the schools will be done thoroughly or effectively. This new language should be removed from the proposal.

***F(2)(ii) Concerns, Authorizer Items (R2T points at risk = 8)***

The R2T application recognizes the valuable role of charter school authorizers, and actually includes many of the Alliance’s recommendations<sup>2</sup>; and, while it appears the NY proposal attempts to improve the state’s authorization process by more completely meeting the criterion F(2)(ii), it will likely decrease the states points on the R2T application under this criterion. F(2)(ii) addresses the inconsistency of charter school authorizing across the states, and directly asks if:

“The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools...”

The goal of this criterion is to ensure there is a state-level framework to ensure that quality charter authorizing occurs, not to replace quality charter school authorizers by direct state-level management in the name of centralization or standardization.

Importantly too, the evidentiary requests for this criterion F(2)(ii) still require standardization (see Appendix II) and the bill language fails to do this. In the efforts to completely address the criterion, the state has included a competitive bidding process, but has not taken the steps necessary to ensure the approval process and subsequent monitoring and oversight process are of high quality. Thus the state has effectively removed its most high quality authorizers, introduced inconsistency into the process, failed to address quality growth of charter schools, and still hasn’t met the criterion. Ultimately, although superficially the competitive bidding process attempts to address the concerns of this criterion, it has failed to do so.

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<sup>2</sup>Alliance Comments on Race to the Top Fund Proposed Priorities, Requirements, Definitions, and Selection Criteria:  
<http://www.publiccharters.org/node/1128>

More concerning though, the State has just codified the practices of the least successful authorizer in NY. And, in an effort to "meet" one R2T criterion F(2(ii)), the state has voided another (F(2)(i)).

Not all of the language in the RFP section though is negative. Specifically pg. 14 line 18 through pg. 15 line 11 are all elements the US Department of Education is interested in encouraging in charter schools and would be strong additions to NY's charter law as long as the negative items outlined above are removed.

***F(2)(iv) Concerns, Facility Restrictions (R2T points at risk = 8)***

Nationally, public charter schools struggle with facilities funding and facilities access. New York City has been a leader in providing public space to public charter schools, and this legislation seems to put in place many new restrictive provisions that would hamper this practice. These new provisions will directly cost the state points under the R2T application. Criteria F(2)(iv) asks states to show that:

“The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; **and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools.**

Many of the facility related additions in this proposal impose facility related requirements on charter schools that are stricter than those traditional public schools face. Thus, the reviewers will count these changes against the state's application.

***E(2)(ii), Turnaround Concerns (R2T points at risk = 35)***

The US Department of Education is investing significant resources into turning around the lowest performing public schools across the country, both via the R2T grant and its School Improvement Grants. In addressing the National Charter Schools Conference in June 2009, US Secretary of Education Arne Duncan explicitly urged operators of high-quality charter schools to get involved in turning around low-performing district schools. He subsequently met with leaders of charter management organizations to make the same case. It is quite intentional that charter schools play a critical role in two of the four US Department of Education sanctioned turnaround methods (see Appendix II for a complete description of this) - the school closure option and the school restart option. The legislative proposal fails to include charter schools at all in its turnaround efforts and explicitly bars operators of charter schools from district contracting. This approach surely will not earn NY the full 35 potential points under the R2T scoring rubric.

**Conclusion**

The legislative proposal begins a worthwhile discussion in NY of how to improve its charter school law and ultimately improve the state's chances of winning a R2T grant; however, as outlined above, the proposal likely makes the state less, not more competitive in the Race to the Top and needs significant work to align it more correctly and completely with the Department of Education's reform efforts. **The National Alliance urges the legislature to raise the charter cap in the state to at least 454, retain SUNY and the NYC Office of Charter Schools as independent charter school authorizers, remove the new facility restrictions, and directly address charter schools in its turnaround efforts.**

**Appendix I – Points at Jeopardy under Legislative Proposal 15400-05-0**

Total Potential R2T Points:

Selection Criteria	Points	Percent
<b>A. State Success Factors</b>	125	25%
(A)(1) Articulating State's education reform agenda and LEAs' participation in it	65	
(i) Articulating comprehensive, coherent reform agenda	5	
(ii) Securing LEA commitment	45	
(iii) Translating LEA participation into statewide impact	15	
(A)(2) Building strong statewide capacity to implement, scale up, and sustain proposed plans	30	
(i) Ensuring the capacity to implement	20	
(ii) Using broad stakeholder support	10	
(A)(3) Demonstrating significant progress in raising achievement and closing gaps	30	
(i) Making progress in each reform area	5	
(ii) Improving student outcomes	25	
<b>B. Standards and Assessments</b>	70	14%
(B)(1) Developing and adopting common standards	40	
(i) Participating in consortium developing high-quality standards	20	
(ii) Adopting standards	20	
(B)(2) Developing and implementing common, high-quality assessments	10	
(B)(3) Supporting the transition to enhanced standards and high-quality assessments	20	
<b>C. Data Systems to Support Instruction</b>	47	9%
(C)(1) Fully implementing a statewide longitudinal data system	24	
(C)(2) Accessing and using State data	5	
(C)(3) Using data to improve instruction	18	
<b>D. Great Teachers and Leaders</b>	138	28%
Eligibility Requirement (b)	eligibility	
(D)(1) Providing high-quality pathways for aspiring teachers and principals	21	
(D)(2) Improving teacher and principal effectiveness based on performance	58	
(i) Measuring student growth	5	
(ii) Developing evaluation systems	15	
(iii) Conducting annual evaluations	10	
(iv) Using evaluations to inform key decisions	28	
(D)(3) Ensuring equitable distribution of effective teachers and principals	25	
(i) Ensuring equitable distribution in high-poverty or high-minority schools	15	
(ii) Ensuring equitable distribution in hard-to-staff subjects and specialty areas	10	
(D)(4) Improving the effectiveness of teacher and principal preparation programs	14	
(D)(5) Providing effective support to teachers and principals	20	
<b>E. Turning Around the Lowest-Achieving Schools</b>	50	10%
(E)(1) Intervening in the lowest-achieving schools and LEAs	10	
(E)(2) Turning around the lowest-achieving schools	40	
(i) Identifying the persistently lowest-achieving schools	5	
(ii) Turning around the persistently lowest-achieving schools	35	
<b>F. General</b>	55	11%
Eligibility Requirement (a)	eligibility	
(F)(1) Making education funding a priority	10	
(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools	40	
(F)(3) Demonstrating other significant reform conditions	5	
Competitive Preference Priority 2: Emphasis on STEM	15	3%
<b>TOTAL</b>	<b>500</b>	<b>100%</b>
Subtotal: Accomplishments	260	52%
Subtotal: Plans	240	48%

**Points at Risk under Legislative Proposal:**

- **A(1)(ii) – Securing LEA commitment, 45 points**
  - **A(2)(ii) – Using broad stakeholder support, 10 points**
  - **E(2)(ii) – Turning around the persistently lowest-achieving schools, 35 points**
  - **F(2)(i)(ii)(iv) – Ensuring successful conditions for high-performing charter schools and other innovative schools, 24 points.**
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- **In total, 114 points are at risk because of this legislative proposal.**

**Appendix II - Race to the Top Charter Criteria:**

**(F)(2) (maximum total points: 40) Ensuring successful conditions for high-performing charter schools and other innovative schools:** The extent to which—

(i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools.

(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools.

(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues.

(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools.

(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

*General Reviewer Guidance for (F)(2): In judging the quality of the applicant's response to this criterion, reviewers should refer to what the criterion asks and to the evidence requested in the application and presented by the applicant (if any).*

*Reviewer Guidance Specific to (F)(2)(i):*

- "High" points are earned if the State either has no cap on the number of charter schools, or it has a "high" cap (defined as a cap such that, if it were filled,  $\geq 10\%$  of the total schools in the State would be charter schools); and the State does not have restrictions, such as those referenced in the "note to reviewers" below, that would be considered even mildly inhibiting.
- "Medium" points are earned if the State has a "medium" cap on the number of charter schools (defined as a cap such that, if it were filled,  $\geq 5\%$  and  $< 10\%$  of the total schools in the State would be charter schools); or the charter school law has sufficient flexibility to allow for an increase in the number of charter schools as if it were a medium or higher cap (e.g. by allowing for the creation of multiple campuses under the same charter); and the State does not have restrictions, such as those referenced in the "note to reviewers" below, that would be considered moderately or severely inhibiting.
- "Low" points are earned if the State has a "low" cap on the number of charter schools (defined as a cap such that, if it were filled,  $< 5\%$  of the total schools in the State would be charter schools) OR if the State has restrictions, such as those referenced in the "note to reviewers" below, that would be considered severely inhibiting.



- *No points are earned if the State has no charter school law.*
- *Note to reviewers: Charter school laws are so complex that it is hard to write rules to capture each possible obstacle to charter school growth; therefore, this rubric is meant to guide reviewers, not to bind them. For example, if a State limits the number of charter schools by limiting the share of statewide or district-level funding that can go to charter schools, rather than by explicitly limiting the number of charter schools, reviewers should convert the funding restriction into an approximately equivalent limit on the number of schools and fit that into the guidelines here. As reviewers assess the inhibitions on charter schools, they should look for restrictions such as: disallowing certain types of charter schools (e.g., startups or conversions); restricting charter schools to operate in certain geographic areas; and limiting the number, percent, or demographics of students that may enroll in charter schools. Some States have “smart caps” designed to restrict growth to high-performing charter schools; this is not a problem unless it effectively restricts any new (i.e., unproven) charter schools from starting.*

Reviewer Guidance Specific to (F)(2)(iii):

- *“High” points are earned if the per-pupil funding to charter school students is  $\geq 90\%$  of that which is provided to traditional public school students.*
- *“Medium” points are earned if the per-pupil funding to charter school students is 80-89% of that which is provided to traditional public school students.*
- *“Low” points are earned if the per-pupil funding to charter school students is  $\leq 79\%$  of that which is provided to traditional public school students, or the State does not have a charter school law.*
- *No points are earned if the State has no charter school law.*

Evidence for (F)(2)(i):

- A description of the State’s applicable laws, statutes, regulations, or other relevant legal documents.
- The number of charter schools allowed under State law and the percentage this represents of the total number of schools in the State.
- The number and types of charter schools currently operating in the State.

Evidence for (F)(2)(ii):

- A description of the State’s approach to charter school accountability and authorization, and a description of the State’s applicable laws, statutes, regulations, or other relevant legal documents.
- For each of the last five years:
  - The number of charter school applications made in the State.
  - The number of charter school applications approved.
  - The number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other).
  - The number of charter schools closed (including charter schools that were not reauthorized to operate).

Evidence for (F)(2)(iii):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the State’s approach to charter school funding, the amount of funding passed through to charter schools per student, and how those amounts compare with traditional public school per-student funding allocations.

Evidence for (F)(2)(iv):

- A description of the State's applicable statutes, regulations, or other relevant legal documents.
- A description of the statewide facilities supports provided to charter schools, if any.

Evidence for (F)(2)(v):

- A description of how the State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

Appendix III – Race to the Top and School Improvement Grants Turnaround Definitions

**I. SCHOOL INTERVENTION MODELS**  
**(Appendix C in the Notice of Final Priorities, Requirements, Definitions, and Selection Criteria; and in the Notice Inviting Applications)**

There are four school intervention models referred to in Selection Criterion (E)(2): turnaround model, restart model, school closure, or transformation model. Each is described below.

- (a) Turnaround model. (1) A turnaround model is one in which an LEA must--
- (i) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;
  - (ii) Use locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students,
    - (A) Screen all existing staff and rehire no more than 50 percent; and
    - (B) Select new staff;
  - (iii) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;
  - (iv) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;
  - (v) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new “turnaround office” in the LEA or SEA, hire a “turnaround leader” who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability;
  - (vi) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards;
  - (vii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;
  - (viii) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and
  - (ix) Provide appropriate social-emotional and community-oriented services and supports for students.
- (2) A turnaround model may also implement other strategies such as—
- (i) Any of the required and permissible activities under the transformation model;
- or
- (ii) A new school model (*e.g.*, themed, dual language academy).

(b) **Restart model.** A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

(c) **School closure.** School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.

(d) **Transformation model.** A transformation model is one in which an LEA implements each of the following strategies:

(1) **Developing and increasing teacher and school leader effectiveness.**

(i) **Required activities.** The LEA must--

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that--

(1) Take into account data on student growth (as defined in this notice) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and

(2) Are designed and developed with teacher and principal involvement;

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high-school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (*e.g.*, regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(ii) **Permissible activities.** An LEA may also implement other strategies to develop teachers’ and school leaders’ effectiveness, such as--

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(2) Comprehensive instructional reform strategies.

(i) Required activities. The LEA must--

(A) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(ii) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as--

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a schoolwide "response-to-intervention" model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited English proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools--

(1) Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

(2) Improving student transition from middle to high school through summer transition programs or freshman academies;

(3) Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

(4) Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(3) Increasing learning time and creating community-oriented schools.

(i) Required activities. The LEA must--

(A) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and

(B) Provide ongoing mechanisms for family and community engagement.

(ii) Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as--

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(4) Providing operational flexibility and sustained support.

(i) Required activities. The LEA must--

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the SEA, or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(ii) Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as--

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

If a school identified as a persistently lowest-achieving school has implemented, in whole or in part within the last two years, an intervention that meets the requirements of the turnaround, restart, or transformation models, the school may continue or complete the intervention being implemented.