

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce Safety Zones; Annual Events in the Captain of the Port Buffalo Zone, as listed in 33 CFR 165.939, Table 165.939(c)(1) in Cleveland, OH on all U.S. waters from 41°29'59.5" N and 081°42'59.3" W to 41°30'4.4" N and 081°42'44.5" W to 41°30'17.3" N and 081°43'0.6" W to 41°30'9.4" N and 081°43'2.0" W to 41°29'54.9" N and 081°43'34.4" W to 41°30'0.1" N and 081°43'3.1" W and back to 41°29'59.5" N and 081°42'59.3" W (NAD 83) for the Whiskey Island Paddlefest in the Cleveland Inner Harbor West Basin, Lake Erie.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or a designated representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Buffalo via channel 16, VHF-FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Buffalo or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552 (a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that the safety zone need not be enforced for the full duration stated in this notice, they may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone. This notification is being issued by the Coast Guard Sector Buffalo Prevention Department Head at the direction of the Captain of the Port.

Dated: July 11, 2023.

**Jeff B. Bybee,**

*Commander, U.S. Coast Guard, Sector Buffalo Prevention Department Head.*

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## DEPARTMENT OF EDUCATION

### 34 CFR Chapter III

[Docket ID ED-2023-OESE-0038]

#### **Final Priority and Requirements—Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities and the School Safety National Activities—National Technical Assistance Center on Positive Behavioral Interventions and Supports**

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Final priority and requirements.

**SUMMARY:** The Department of Education (Department) announces a priority and requirements for the National Technical Assistance Center on Positive Behavioral Interventions and Supports (Center) under the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and the School Safety National Activities programs, Assistance Listing Number 84.326S. The final priority and requirements in this document are specific to the work funded out of the School Safety National Activities program and are designed to improve student safety and well-being. We may use this priority or one or more of these requirements in fiscal year (FY) 2023 and later years.

**DATES:** Effective August 16, 2023.

**FOR FURTHER INFORMATION CONTACT:** Renee Bradley, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 987-1128. Email: [Renee.Bradley@ed.gov](mailto:Renee.Bradley@ed.gov).

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

#### **SUPPLEMENTARY INFORMATION:**

**Purpose of Program:** The purpose of the Center is to enhance the capacity of States and local educational agencies (LEAs) to implement positive and safe school climates, and effectively support and respond to students' social, emotional, behavioral, and mental health needs to ensure participation and enhance learning, by implementing evidence-based practices (EBPs) within a multi-tiered system of support (MTSS) framework.

**Note:** The Center is jointly funded under the Individuals with Disabilities Education Act (IDEA) and the Elementary and Secondary Education Act (ESEA). By combining funds from two separate programs, the Department is able to make a

more comprehensive investment to address the purpose of the Center.

**Program Authority:** Section 4631(a)(1)(B) of the ESEA (20 U.S.C. 7281).

We published a notice of proposed priority and requirements (NPP) for this program in the **Federal Register** on March 13, 2023 (88 FR 15336). That document contained background information and our reasons for proposing the particular priority, including the requirements.

As discussed in the *Analysis of Comments and Changes* section of this document, we made minor changes to the priority. We made both substantive and editorial changes to the application requirements.

**Public Comment:** In response to our invitation in the NPP, 16 parties submitted comments addressing the priority, including the requirements.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority and requirements.

**Analysis of Comments and Changes:** An analysis of the comments and of any changes in the priority and requirements since publication of the NPP follows. We group major issues according to subject.

#### **General Comments:**

**Comment:** All commenters expressed general support for the priority and requirements. Commenters supported the Department's efforts to implement EBPs within an MTSS/Positive Behavioral Interventions and Supports (PBIS) framework, supports for underserved students, and the provision of technical assistance (TA) to State educational agencies (SEAs) and local educational agencies (LEAs) to develop, expand, and sustain schoolwide MTSS frameworks and to build personnel capacity and expertise to promote safe, positive, predictable, and culturally and linguistically inclusive learning environments where students feel a sense of belonging.

In addition, a commenter appreciated the access to external expertise; a second commenter recognized the need for support of various subgroups and geographic areas; and a third commenter expressed support for the inclusion of rural schools in the priority.

**Discussion:** We appreciate the support for the program and for the specific emphasis on implementing EBPs within an MTSS/PBIS framework.

*Changes:* None.

*Comments Addressing the Priority:*

*Comment:* All commenters expressed general support for the priority. Some commenters suggested additions to the priority. One commenter recommended emphasizing in-service training opportunities for teachers and training for school administrators. A second commenter suggested revising the priority to incorporate student and parent input into all aspects of the initiative, including development, implementation, evaluation, and continuous quality improvement. A third commenter suggested prioritizing Tier 1 prevention programs to support building student social and emotional skills.

*Discussion:* We agree with the importance of providing training for administrators. We note that administrators are included under school-based and LEA personnel referenced throughout the priority as intended recipients of capacity-building services or users of Center products, and we have added a phrase to clarify their inclusion in the priority.

We agree with the importance of in-service training and coaching to ensure current teachers and staff have the necessary knowledge and skills for effective implementation, and we also believe that pre-service training could be an effective approach. We are revising the priority to specify in-service training, coaching, and pre-service training as methods that can be used to improve knowledge and skills.

We agree with the importance of including end user recipients of the services as critical partners in ensuring that TA activities are high-quality, relevant, and useful in improving outcomes for intended beneficiaries. We believe student and family engagement and collaboration are sufficiently incorporated through several application requirements, such as those in paragraphs (b)(5)(iv)(D) and (e)(4). In addition, family and student engagement and collaboration have been evident in prior iterations of this investment and we would expect the same in this iteration.

Finally, we also agree with the need to prioritize Tier 1 prevention to include building social and emotional skills. Because the purpose of this priority is to effectively support and respond to students' social, emotional, behavioral, and mental health needs, we do not believe additional changes are necessary.

*Changes:* We have revised expected outcome (b) to specifically reference pre- and in-service training and coaching and to clarify that

administrators and practitioners are included in the reference to school personnel.

*Comments Addressing the Application Requirements:*

*Comment:* One commenter strongly urged adding gender identity/LGBTQ+ status, limited English proficiency/language status, and socio-economic status to application requirement (b)(1).

*Discussion:* We support including groups that have traditionally been underrepresented. We note that application requirement (d)(1) also lists the same categories of traditionally underrepresented groups.

*Changes:* We have added LGBTQI+, English learner, and socio-economic status to application requirement (b)(1). We have also revised application requirement (d)(1) to align with the language in (b)(1).

*Comment:* One commenter recommended revising application requirement (b)(5) to require applicants to describe how they will provide TA to families, especially underserved families, and to federally funded parent centers.

*Discussion:* We agree with the importance of providing TA directly to parents and families. The Department has several investments to support parents and families, including Parent Training and Information Centers, Community Parent Resource Centers, and Statewide Family Engagement Centers (For more information see: <https://www.parentcenterhub.org/find-your-center/> and <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/school-choice-improvement-programs/statewide-family-engagement-centers-program>). In addition, application requirement (b)(5)(iv)(D) requires applicants to describe how they will work across the education system (e.g., SEAs, regional TA providers, LEAs, schools, families) to ensure adequate communication across levels as well as systems to support the use of PBIS. The Department believes this requirement sufficiently addresses the commenter's interest in supporting family and parent engagement. The Center will provide TA to SEAs and LEAs on enhancing efforts to engage and collaborate with families. The Center will also collaborate with and provide information to the federally funded parent grants.

*Changes:* None.

*Comment:* One commenter recommended referring to the perspectives of other Department investments in application requirement (e)(4).

*Discussion:* Under requirement (e)(4), applicants must demonstrate how the project will benefit from a diversity of perspectives, including a list of entities, "among others." The list in the requirement is not intended to be exhaustive. We believe the inclusion of "among others" is adequate to include other related Federal investments if the applicant so chooses. We believe that consideration of other perspectives, including other Department investments, should be discretionary, not mandatory, as SEAs and LEAs are the primary recipients of services for this investment.

*Changes:* None.

*Comment:* One commenter recommended we also require applicants to describe how they will develop resources and tools, and use dissemination strategies, that are easily accessible to practitioners.

*Discussion:* We agree with the importance of ensuring that resources and tools are developed and formatted specific to intended audiences and are relevant and useful to those served by the Center, but we do not think an additional application requirement is necessary. Applicants' proposals regarding the design and quality of their materials and services are addressed in application requirements (b)(5)(iii)(A), (b)(6), and (b)(7) and will be evaluated and scored by peer reviewers.

*Changes:* None.

*Comment:* One commenter requested that we emphasize universal TA and ensure that the TA Center is available to all States, districts, and schools.

*Discussion:* We agree that it is important for universal TA to be available to a broad audience. Application requirement (f)(4) requires a website and dissemination plan to ensure broad dissemination of resources, tools, and access to expertise. Building State and local capacity to expand access to experts is explicitly stated in the purpose of the priority and as a Center outcome (see expected outcome (b)). In past iterations of this investment, the "train the trainers" approach successfully built capacity for universal prevention and implementation practices, and applicants may consider this approach again as an activity to build SEA and LEA capacity.

*Changes:* None.

*Comment:* One commenter suggested expanding the diversity of perspectives on the 3+2 evaluation team to include parent centers, statewide family engagement centers, the center for parent information and resources, and regional parent technical assistance centers.

*Discussion:* We agree with including a diversity of perspectives throughout the Center's activities, including on the 3+2 review team, and recipients of services, such as parent centers, can provide an important perspective to the 3+2 review team. Because parent centers are only one type of service recipient, however, we believe it would be more appropriate to incorporate the broader category of "recipients of services" onto the review team and not limit the perspective to only parent centers but include a broader parent perspective as well as other recipient perspectives such as school leaders, teachers, LEA and SEA personnel, and students. We are revising the corresponding application requirement to include recipients of services, which includes the Federal parent centers.

*Changes:* Under *Fourth and Fifth Years of the Project*, in paragraph (a), we have expanded the participants on the 3+2 review team to include recipients of services.

*Comment:* Two commenters suggested being more specific on required collaborations, one requesting the inclusion of families and other Federal investments and one the inclusion of community organizations (backbone organizations).

*Discussion:* We agree that it is important that the Center collaborate with a range of stakeholders and partners to accomplish the outcomes of this investment.

*Changes:* We have added "families, community providers, and other Federal investments" to application requirement (b)(6)(ii).

*Comment:* One commenter recommended we include rural schools in application requirement (a)(1)(iii).

*Discussion:* Application requirement (a)(1)(iii) requires an applicant to present information on current implementation of MTSS/PBIS and its benefits for students, as part of a larger requirement in paragraph (a)(1) to demonstrate how the applicant's project will improve implementation and scaling of EBPs within an MTSS/PBIS framework and provide additional behavioral supports for students whose behavior impacts their ability to benefit from a high-quality education environment. We agree that it is important for the priority and requirements to address information about and benefits to rural schools, and note that rural schools are already included in the list of settings described in the priority. To address the commenter's feedback on providing information about rural schools in the application requirements, we are revising requirement (a)(1) to ensure

that applicants address how the proposed project will improve implementation of MTSS/PBIS frameworks across the variety of settings listed in the priority, which includes rural settings. We are making this change to (a)(1) generally, and not simply to (a)(1)(iii) as the commenter requested, because we believe all three sub-paragraphs would be strengthened by the requirement to address a variety of settings. The Department notes that in any year we use this priority, we can specify, in the notice inviting applications, which of the settings in the priority must be addressed by the applicants.

*Changes:* We have added language to requirement (a)(1) to include "other underserved students in the settings established in the priority."

*Comment:* One commenter recommended that we require applicants to provide evidence of their knowledge of rural schools and demonstrate their experience in implementing EBPs in rural schools.

*Discussion:* We agree that applicants must demonstrate knowledge of and experience in the required activities. As mentioned above, we revised requirement (a)(1) to ensure that applicants demonstrate how the proposed project will improve implementation of MTSS/PBIS frameworks across a variety of settings, including rural settings.

Additionally, application requirement (d)(2) requires applicants to address how their key personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes. We believe the applicants' responses to these two requirements will provide reviewers with sufficient information to ensure that applicants are prepared to be successful implementing the project in a variety of settings, including rural areas. In addition, application requirement (b)(6)(ii) requires applicants to list collaborators. In the past, successful applicants for national TA centers have gathered a team of experts with a range of expertise to address the various requirements.

*Changes:* None.

*Comment:* One commenter requested the Department include rural areas and Tribal areas in application requirement (b)(5)(iv)(A).

*Discussion:* Application requirement (b)(5)(iv)(A) requires the applicant to identify the intended recipients of the Center's intensive, sustained TA, including "recipients from a variety of settings and geographic distribution." Because rural areas are specifically

included among the priority's implementation settings and throughout the requirements, as discussed above, we do not believe separate mention is necessary in this application requirement. We note that Tribal areas are not one of the specified implementation settings in the priority. In addition, in the course of considering this comment, we also noted the absence of implementation settings with a high percentage of English learners.

*Changes:* In the priority, we have added to the list of implementation settings federally supported elementary schools or secondary schools for Indian students and English learners, which allows them to be among the "recipients from a variety of settings" under requirement (b)(5)(iv)(A).

*Comment:* One commenter, while generally supporting the priority and requirements, expressed concern that some requirements will unintentionally create burdensome conditions that will preclude successful applications from rural and small LEAs.

*Discussion:* We appreciate the overall support for the priority but note that this investment is for a national TA Center to enhance the capacity of States and LEAs across the country. Any entity interested in applying for this grant will need to be able to meet the requirements to apply for and implement the grant.

*Changes:* None.

*Comment:* One commenter recommended clarifying the roles and responsibilities of the Office of Special Education Programs (OSEP) project officer, Office of Elementary and Secondary Education (OESE) staff, and the Center to Improve Program and Project Performance (CIPP) as referenced in application requirement (c)(1).

*Discussion:* This Center will address two absolute priorities. Absolute Priority 1 will be funded by OSEP and managed by the OSEP project officer. Absolute Priority 2 will be funded by OESE and managed by OESE staff. The OSEP project officer and OESE staff will collaborate to manage the overall investment. The CIPP Center, an OSEP-funded TA center, will provide TA to the Center funded under this competition to help the Center review and revise the project evaluation plan to ensure the plan is well designed and adequate to collect data needed to demonstrate progress in meeting the grant requirements. Application requirements include assurances that the applicant will collaborate with CIPP on an evaluation plan. Work with CIPP will be further described at the Center kickoff meeting post-award. In addition, applicants will be given an opportunity

to attend an informational webinar and will be given a contact at the Department for additional application information and questions.

*Changes:* None.

**FINAL PRIORITY:**

*Technical Assistance—School Safety National Activities Program—National Technical Assistance Center on Positive Behavioral Interventions and Supports.*

The purpose of this priority is to enhance the capacity of SEAs and LEAs to implement positive and safe school environments, and effectively support and respond to students' social, emotional, behavioral, and mental health needs to improve their learning, by implementing EBP<sup>1</sup> within an MTSS/PBIS framework in one or more of the following settings:

(i) Programs or schools serving high percentages of students from low-income families in the following settings:

- (1) Early learning programs.
- (2) Elementary schools.
- (3) Middle schools.
- (4) High schools.
- (5) Career and technical education programs.

(ii) Alternative schools and programs.

(iii) Juvenile justice system or correctional facilities.

(iv) Low-performing schools.

(v) Schools with a high student-to-mental health provider ratio.

(vi) Schools with high rates of chronic absenteeism, exclusionary discipline, referrals to the juvenile justice system, bullying/harassment, community and school violence, or substance abuse.

(vii) Schools in which students recently experienced a natural disaster, incident of violence, or traumatic event.

(viii) Schools with high percentages of students with disabilities or English learners.

(ix) Federally supported elementary schools or secondary schools for Indian students.

To meet this priority, the applicant must propose to achieve, at a minimum, one or more of the following expected outcomes:

(a) Improved systems and resources at the national, regional, State, and district levels to support, develop, align, and sustain local implementation of MTSS/PBIS efforts to organize EBPs to support positive school climates and respond to student social, emotional, behavioral, and mental health needs to improve access to and engagement in learning.

(b) Improved capacity of SEA and LEA personnel to support the knowledge and skills development of school personnel, including administrators and practitioners, through efforts such as pre-service and in-service training and coaching, to implement MTSS/PBIS as a framework to organize EBPs to support and respond to student needs, particularly those students from underserved and culturally and linguistically diverse backgrounds, and students whose behaviors may interfere with their ability to fully participate in, and benefit from, a high-quality learning environment.

(c) Increased use by SEAs, LEAs, and school-based personnel of reliable and valid tools and processes for enhancing and assessing the fidelity of implementation of an MTSS/PBIS framework and for measuring intended outcomes, including improvements in school climate; time spent on instruction; well-being and belonging; overall academic achievement; and reductions in absenteeism, discipline referrals, suspensions, expulsions, the use of restraints or seclusion, illegal use of drugs, and referrals to law enforcement.

(d) Improved implementation of an MTSS/PBIS framework and EBPs, and assessment of SEA or LEA recipients of grant programs that focus on improving positive school climates and implementing EBPs to support and respond to students' social, emotional, behavioral, and mental health needs.

(e) Enhanced response and recovery assistance, as requested by and in collaboration with the Department, for violent or traumatic incidents that impact school communities, including intensive individualized support to facilitate recovery of the learning environment.

(f) Increased body of knowledge and evidence to enhance implementation of PBIS and other emerging MTSS frameworks and EBPs to address the social, emotional, behavioral, and mental health needs of underserved students in the settings established in the priority.

**Requirements:**

The Department proposes the following eligibility and application requirements for this program. We may apply one or more of these requirements in any year in which the program is in effect.

**Eligible Applicants:** SEAs; State lead agencies under Part C of the IDEA; LEAs, including public charter schools that are considered LEAs under State law; institutions of higher education; other public agencies; private nonprofit

organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

**Application Requirements:**

(a) Demonstrate how the proposed project will—

(1) Improve SEAs' and LEAs' implementation, scaling, and sustaining of EBPs within an MTSS/PBIS framework and policies that are designed to improve school climate and, as needed, provide additional behavioral supports for students whose behavior impacts their ability to fully participate in, and benefit from, a high-quality learning environment, including students with disabilities and other underserved students in the settings established in the priority. To meet this requirement, the applicant must—

(i) Present applicable State, regional, or local data demonstrating SEAs' and LEAs' needs related to (A) implementation of EBPs and policies to improve school climate, student well-being and belonging; and (B) increasing students' ability to fully participate in, and benefit from, a high-quality learning environment;

(ii) Demonstrate knowledge of current education issues and policy initiatives relating to MTSS/PBIS and school climate practices and policies and EBPs to effectively support and respond to student behavior that impacts learning; and

(iii) Present information about the current level of implementation of MTSS/PBIS, EBPs, policies, best practices, and benefits for all students, especially underserved students and those from culturally and linguistically diverse backgrounds; and

(2) Improve the implementation of EBPs within an MTSS/PBIS framework to effectively support and respond to student behaviors that impact access to and participation in learning.

(b) Demonstrate how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, disability, LGBTQI+, English learner, or socio-economic status. To meet this requirement, the applicant must describe how it will—

(i) Identify the TA and information needs of the intended recipients; and

(ii) Ensure that services and products meet the needs of the intended recipients of the TA;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

<sup>1</sup> "Evidence-based practices" (EBPs) means, at a minimum, demonstrating a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

(i) Measurable intended project outcomes; and

(ii) The logic model<sup>2</sup> by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on the assessment of the implementation of MTSS/PBIS frameworks and related EBPs;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current and emerging research and practices in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base of PBIS;

(ii) Its proposed approach to universal, general TA,<sup>3</sup> which must identify the intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the

expected impact of those products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,<sup>4</sup> which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current systems, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,<sup>5</sup> which must identify—

(A) The intended recipients, including the type and number of recipients from a variety of settings and geographic distribution, that will receive the products and services designed to improve school climate;

(B) Its proposed approach to measure the readiness of the State- and local-level personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current systems, available resources, and ability to build capacity at the local level;

(C) Its proposed plan for assisting SEAs, LEAs, local Part C agencies, charter management organizations, and private school organizations to build or enhance training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, regional TA providers, LEAs, schools, families, community providers) to ensure that

there is communication between each level and that there are systems in place to support the use of PBIS;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate, including families, community providers, and other Federal investments as appropriate, and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the project will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) Include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe measures of progress in implementation, including criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the Office of Special Education Programs (OSEP) project officer in consultation with Office of Elementary and Secondary Education (OESE) staff, a project liaison with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIPP),<sup>6</sup> the project

<sup>2</sup> As defined in 34 CFR 77.1, "logic model" (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

<sup>3</sup> "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with Center staff and including one-time, invited or offered conference presentations by Center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the Center's website by independent users. Brief communications by Center staff with recipients, either by telephone or email, are also considered universal, general TA.

<sup>4</sup> "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more Center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

<sup>5</sup> "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the Center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

<sup>6</sup> The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded \$500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

director, and the OSEP project officer on the following tasks:

(i) Revise the logic model submitted in the application, as appropriate, to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kickoff meeting;

(ii) Refine the evaluation design and instrumentation proposed in the application, as appropriate, to be consistent with the revised logic model and using the most rigorous design suitable (e.g., prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise the evaluation plan submitted in the application such that it clearly—

(A) Specifies the evaluation questions, measures, and associated instruments or sources for data appropriate to answer these questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the evaluation activities;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) by OSEP for continued funding described under the heading Fourth and Fifth Years of the Project; and

(C) Can be used to assist the project director and the OSEP project officer in consultation with OESE staff, with the assistance of CIPP, as needed, to specify the project performance measures to be addressed in the project's annual performance report;

(2) Dedicate sufficient staff time and other resources during the first 6 months of the project to collaborate with CIPP staff, including regular meetings (e.g., weekly, biweekly, or monthly) with CIPP and the OSEP project officer, in order to accomplish the tasks described in paragraph (c)(1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (c)(1) and (2) of this section and revising and implementing the evaluation plan. Please note in your budget narrative the funds dedicated for this activity.

(d) Demonstrate how—

(1) The proposed project will encourage applications for employment

from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, disability, LGBTQI+, English learner, or socioeconomic status, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policymakers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kickoff meeting in Washington, DC after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer, OESE representative, and other relevant staff during each subsequent year of the project period.

*Note:* Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two- and one-half day project directors' conference in Washington, DC during each year of the project period;

(iii) Three annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP or OESE; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC during the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer in consultation with OESE staff as appropriate. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to a new award at the end of this award period, as appropriate.

#### *Fourth and Fifth Years of the Project:*

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts and recipients of services who have experience and knowledge in PBIS. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

#### *Types of Priorities:*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

**Absolute priority:** Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

**Competitive preference priority:** Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

**Invitational priority:** Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

**Note:** This document does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

## Executive Orders 12866, 13563, and 14094

### Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal Governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would

meaningfully further the President’s priorities or the principles stated in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by Executive Order 14094). Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing the final priority, including requirements, only on a reasoned determination that its benefits justify its costs. In choosing among

alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal Governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

### Discussion of Potential Costs and Benefits

The Department believes that the costs associated with the final priority, including requirements, will be minimal, while the benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The benefits of implementing the program to focus attention on an identified need to enhance the capacity of States and LEAs to implement positive and safe school climates, and effectively support and respond to students’ social, emotional, behavioral, and mental health needs to ensure participation and enhance learning, by implementing EBPs within an MTSS framework, will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be burdensome for eligible applicants, including small entities.

### Regulatory Alternatives Considered

The Department believes that the priority, including requirements, is needed to administer the program effectively.

### Paperwork Reduction Act of 1995

The final priority, including requirements, contains information collection requirements that are approved by OMB under control number 1820–0028; the final priority,



including requirements, does not affect the currently approved data collection.

#### *Regulatory Flexibility Act*

**Certification:** The Secretary certifies that this final regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action will affect are LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by this final priority, including requirements, will be limited to paperwork burden related to preparing an application and that the benefits of this final priority, including requirements, will outweigh any costs incurred by the applicant.

Participation in the TA Center grant program is voluntary. For this reason, the final priority, including requirements, imposes no burden on small entities unless they apply for funding under the program. We expect that in determining whether to apply for TA Center funds, an eligible entity will evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a grant to establish and operate the TA Center. An eligible entity will most likely apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the final priority, including requirements, will not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of this final action. That is, the length of the applications those entities would submit in the absence of this final regulatory action and the time needed to prepare an application will likely be the same.

This final regulatory action will not have a significant economic impact on a small entity once it receives a grant, because it will be able to meet the costs

of compliance using the funds provided under this program.

**Intergovernmental Review:** This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local Governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

**Accessible Format:** On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, Braille, large print, audiotape, or compact disc, or other accessible format.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**James F. Lane,**

*Principal Deputy Assistant Secretary,  
Delegated the Authority to Perform the  
Functions and Duties of Assistant Secretary  
for the Office of Elementary and Secondary  
Education.*

[FR Doc. 2023-15162 Filed 7-13-23; 4:15 pm]

**BILLING CODE 4000-01-P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 73 and 74**

[GN Docket No. 16-142; FCC 23-53; FR ID 152588]

### **Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) makes changes to its Next Gen TV rules designed to preserve over-the-air (OTA) television viewers' access to the widest possible range of programming while also supporting television broadcasters' transition to the next generation of broadcast television technology. In the first part of this Order, the Commission establishes a licensing regime for Next Gen TV stations' multicast streams that are aired on host stations during the transition period. In the second part of this Order, the Commission retains the substantially similar rule and the requirement to comply with the ATSC A/322 standard.

**DATES:** Effective August 16, 2023, except for §§ 73.3801(f) and (i), 73.6029(f) and (i), and 74.782(g) and (j) which contain information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date for these sections. In addition, effective August 16, 2023, the stay on 47 CFR 73.682(f)(2)(iii) is lifted.

**FOR FURTHER INFORMATION CONTACT:** For additional information, contact Evan Baranoff, [Evan.Baranoff@fcc.gov](mailto:Evan.Baranoff@fcc.gov), of the Media Bureau, Policy Division, (202) 418-7142. Direct press inquiries to Janice Wise at (202) 418-8165. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Third Report and Order, in GN Docket No. 16-142; FCC 23-53, adopted on June 20, 2023 and released on June 23, 2023. The full text of this document is available electronically via the FCC's website at <https://docs.fcc.gov/public/attachments/FCC-23-53A1.pdf> or via the FCC's Electronic Comment Filing