

**Modifications to Questions in the
April 2009 Guidance on the
State Fiscal Stabilization Fund Program**

**U.S. Department of Education
April 7, 2009**

Introductory Note

On April 1, 2009, the U.S. Department of Education (Department) released detailed guidance on the State Fiscal Stabilization Fund program. As a preface to the guidance, the Department indicated that it would provide additional or updated guidance as necessary and invited interested parties to provide comments on the document.

In response to comments received, we are updating the answers to three of the questions in the initial guidance. Those questions, with the revised answers, are provided below. The Department intends to periodically incorporate new questions and answers into a revised version of the complete guidance document.

The answers to the questions below modify and supersede the answers in the initial guidance:

III-A-3. What is an “institution of higher education”?

For purposes of the Stabilization program, the term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965. That is, an “institution of higher education” is an educational institution that is legally authorized within the State to provide a program of education beyond secondary education and that admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

The institution must provide an educational program for which it awards a bachelor’s degree or provides not less than a two-year program that is acceptable for full credit toward such a degree. In addition, it must be accredited by a nationally recognized accrediting agency or association or, if not so accredited, be an institution that has been granted pre-accreditation status by an agency or association that has been recognized by the Secretary of Education for the granting of pre-accreditation status, and as to which the Secretary has determined that there is satisfactory assurance that it will meet the accreditation standards of such an agency or association within a reasonable time. (A list of the accrediting agencies or associations recognized by the Secretary can be found at <http://www.ed.gov/admins/finaid/accred/index.html>.)

In addition, the term “institution of higher education” includes any school that (a) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and (b) meets all of the requirements specified above except that of providing an educational program for which the institution awards a bachelor’s degree or provides not less than a two-year program that is acceptable for full credit toward such a degree.

Finally, the term includes an institution that meets all of the requirements specified above except that, in lieu of the requirement that it admit as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, it admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located.

Please note that amendments slightly broadening the scope of this definition will take place on July 1, 2010.

Under the Education Stabilization Fund, only *public* IHEs are eligible for assistance.

III-A-8. May a Governor award Education Stabilization funds to a State Higher Education Board that, for example, receives appropriated State student financial aid funds?

A Governor may award Education Stabilization funds only to LEAs and public IHEs. In some States, however, the State does not provide support directly to IHEs. Rather, the State appropriates funds to a State Higher Education Board that, in turn, provides support to public IHEs. In such instances, the State Higher Education Board may serve as a flow-through agency for the Education Stabilization Funds that the Governor must award to public IHEs.

All Education Stabilization funds that are initially provided to a State Higher Education Board must be awarded to public IHEs. A State Higher Education Board may not reserve any of the Education Stabilization funds or award those funds to another government agency.

III-A-5. Must an LEA receive State funds through the State’s primary elementary and secondary education formulae in order to be eligible to receive Education Stabilization funds?

When a State awards Education Stabilization funds to LEAs through the State's primary funding formulae, the State may provide funds only to those LEAs (including any charter school LEAs) that also receive State funds through the State's primary funding formulae.

The Department recognizes that in some States, funds that are provided through the State's primary elementary and secondary funding formulae are awarded directly to local governments (e.g., counties or towns) that, in turn, allocate funds to LEAs. However, these States, like other States, have the capacity to award funds directly to LEAs (as they do under many Federal education programs). Thus, in providing funds through its primary funding formulae, every State must award Education Stabilization funds directly to LEAs and not to local governments on behalf of LEAs.

If there are Education Stabilization funds remaining after the State calculates the amount needed to restore fully the levels of State support for elementary and secondary education and public IHEs, any LEA (including a charter school LEA) that receives Title I, Part A funds will receive a share of those remaining Education Stabilization funds based on its Title I, Part A share, even if that LEA does not receive State funds through the State's primary funding formulae. (*See* discussion in section B below.)