

**Modification to the Answer to Question III-B-1 in the  
April 2009 Guidance on the  
State Fiscal Stabilization Fund Program**

**U.S. Department of Education  
July 6, 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 modifying the answer to Question III-B-1 in the initial guidance. Under the modified answer, for purposes of the Stabilization program, State funding that is provided to public institutions of higher education for student financial assistance programs may, under certain limited circumstances, be considered State support for these institutions.

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**III-B-1. What levels of State support must a Governor restore for elementary and secondary education and public IHEs?**

For each of FYs 2009, 2010, and 2011, a Governor must restore the levels of State support for elementary and secondary education and for public IHEs to the greater of the FY 2008 or FY 2009 levels of such support.

- For *elementary and secondary education*, a State must restore the levels of State support provided through the State's primary elementary and secondary education formulae to the greater of the FY 2008 or FY 2009 levels. (*See* Question III-B-7.) In restoring the levels of State support for elementary and secondary education for FYs 2010 and 2011, a State must allow: (a) existing State formulae increases to support elementary and secondary education for FYs 2010 and 2011 to be implemented, if these increases were enacted pursuant to State law prior to October 1, 2008; and (b) funding for phasing in State equity and adequacy adjustments, if the adjustments were enacted pursuant to State law prior to October 1, 2008.
- For public institutions of higher education, a State must also restore the levels of State support (excluding tuition and fees paid by students) to the greater of the FY 2008 or FY 2009 levels of support. For purposes of the Stabilization program, State appropriations to public IHEs for financial assistance programs to defray the costs of tuition and fees paid

by students (when the appropriated funds flow directly to the IHEs) may be considered State support for such institutions. The fact that the funds represent student financial aid for other purposes does not preclude such funds from consideration as State support for public IHEs in the Stabilization program.

- In addition, unrestricted State funding for public IHEs is considered State support for such institutions even if those institutions choose to use a portion of that funding for financial assistance to students.

In determining the amount of Education Stabilization funds that a State must reserve for LEAs and the amount it must reserve for public IHEs, a State must follow the specific steps outlined in Illustration 6 and detailed in the worksheets in Appendix D of the Stabilization fund application. Once these amounts are determined, a Governor has some discretion in deciding when to release the funds to LEAs and public IHEs. (*See* Question III-B-10.) In addition, LEAs and public IHEs have some discretion in determining when to use any funds that they receive. (*See* Questions III-D-16 and III-E-11.)

Illustration 5 summarizes the separate stages of calculating the restoration amounts, releasing Education Stabilization funds to LEAs and public IHEs, and obligating those funds.