



Steven L. Beshear  
Governor

Terry Holliday, Ph.D.  
Commissioner of Education

EDUCATION AND WORKFORCE DEVELOPMENT CABINET  
DEPARTMENT OF EDUCATION

Capital Plaza Tower • 500 Mero Street • Frankfort Kentucky 40601  
Phone: (502) 564-4770 • [www.education.ky.gov](http://www.education.ky.gov)

January 20, 2011

Dr. Sheldon Berman, Superintendent  
Jefferson County Public Schools  
PO Box 34020  
Louisville, KY 40232

Dear Dr. Berman:

Thank you for seeking advance technical assistance regarding the model to be used in your persistently low-achieving schools.

This correspondence is in response to your submission of the outline of the JCPS Transformation Model proposal for review and technical assistance as forwarded to me by Commissioner Holliday. This response is based upon KRS 160.346, federal School Improvement Grant 1003g (SIG) guidance, and KRS 156.557. While the submission is an initial attempt to present a model for implementation in your persistently low-achieving (PLA) schools, there are some concerns with regard to how well it aligns with these guidelines.

The district's proposal cites three areas of concern as to why it would be difficult to implement the transformation model in Jefferson County. These include: 1) the modification and implementation of a new evaluation system, 2) a financial incentive system for teachers and principals at identified schools, and 3) an expedited system for removing employees unable to demonstrate the required growth of assigned students.

With regard to the first area of concern, the proposal attempts to address the requirement by calling for development and implementation of a rigorous, transparent and equitable evaluation system for teachers and principals and the development of a professional growth plan to address teacher needs. The outline references KRS 156.557 or an approved alternative evaluation plan as the source for determining performance criteria. Certainly, any evaluation plan must meet the general requirements of KRS 156.557. However, it is important to note that the SIG Guidance specifically requires that the evaluation system "takes into account data on student growth as a significant factor as well as other factors".

<http://www2.ed.gov/programs/sif/sigguidance11012010.pdf>

The outline mentions an alternative evaluation plan, but details such as the origination of the plan, its approval steps and its implementation have not been provided. The plan does not

address the specific methods for using student academic growth, increased high school graduation rates, or measures of college- and career-readiness to determine high school teacher effectiveness as mandated by the SIG guidelines. The plan also does not address the specific methods for using student academic growth, or other criteria to determine middle or elementary teacher effectiveness as mandated by the SIG guidelines. Additionally, some of the specifics of the plan appear to be pending negotiations with the Jefferson County Teachers Association (JCTA) and/or collaboration with teachers and administrators. Please understand that it is impossible to evaluate the plan prior to these collaborative discussions and negotiations that could ultimately affect the details of the evaluation plan. It is important to note that any plan must be approved by KDE in its final form.

As to the second area of concern (financial incentives), I refer you to Section E-2 of the SIG Guidance document and caution you about confusing the requirement, "Identify and reward school leaders, teachers, and other staff who, in implementing this model have increased student achievement and high school graduation rate" with the requirement, "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..."

You note that the expedited removal of employees may be the most difficult to implement. I would point out that the regulations require that any plan developed to remove a teacher/principal shall include provisions for adequate support and opportunity to improve and the term "expedited" does not appear in the SIG guidance for the FY2010 School Improvement Grants. Although you list certain elements of a corrective action plan, your plan as submitted does not specifically use the required language of "adequate support and opportunity to improve".

As you pointed out in your introduction, there are other permissible options for persistently low-achieving schools. These include:

- External Management Option (EMO) – requires that the day-to-day management of the school be transferred to an education management organization that may be a for-profit or nonprofit organization that has been selected by a local board of education from a list of management organizations;
- Turnaround/Restaffing Option – requires the replacement of the principal and the existing school-based decision making council unless audit reports recommended otherwise; screening of existing faculty and staff with the retention of no more than 50 percent of the faculty and staff at the school; development and implementation of a plan of action that uses research-based school improvement initiatives designed to turn around student performance; and
- School Closure Option – requires the closure of an existing school and the transfer of its students to other schools within the district that are meeting their accountability measures and reassignment of the school's faculty and staff to available positions within the district.

Given that these are permissible options, you may want to consider one of them as an alternative. You may also want to review published examples of SIG implementation available online from the U.S. Department of Education at <http://www2.ed.gov/programs/sif/examples.html> as these illustrate successful efforts in other districts.

If any of your concerns about implementation relate to potential challenges in your district due to a bargained contract, I would remind you that a bargained contract, including memorandum of agreement, cannot supersede federal regulations. In addition KRS 160.346 (10) specifically states that professionally negotiated contracts by a local board of education shall not take precedence over the requirements of the Restaffing, Restart, School Closure or Transformation options.

Finally, please be advised that we will require strict adherence to the SIG guidelines for all turnaround options selected by the district, including the restaffing option. Successful implementation of this option requires the district's ability to recruit, hire and retain the highest quality teachers experienced in teaching the populations of students at these schools. This point is critical since the issue of staffing in Jefferson County was addressed in a report by the Office of Education Accountability (OEA). The report found that the bargained contract with the JCTA facilitates the transfer of more experienced teachers out of low-performing schools by giving them priority consideration for job openings in other schools. Review of the implementation of the restaffing option in other schools in Jefferson County indicates that efforts to restaff the previously identified low-performing schools resulted in hiring high percentages of new, inexperienced teachers and interns.

The May 2010 MOA between the district and JCTA further restricts the district's ability to take steps to restaff the schools with those teachers the district deems most qualified. Despite the statutory language providing the district freedom from the constraints of the contract, the MOA gives the JCTA authority in the rehiring process for PLA schools in the district.

The SIG guidance requires that a district choosing the restaffing option use locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment and meet the needs of students. This process is to be utilized to screen all existing staff, to rehire no more than 50 percent and to select new staff. If the district has already implemented a similar plan or process within the prior two years and relies on staff transfers and hires during this time to arrive at the restaffing requirements, evidence must be provided to support the district efforts. As stated above, the bargained contract may not take precedence over the requirements of the restaffing option, which includes using the provisions in bargained contracts, MOA(s) or other agreements as reasons for the inability to implement the restaffing option with fidelity or to otherwise dilute the federal guidelines for the restaffing (turnaround) model. This includes using a bargained agreement or MOA to water down the requirement for the use of competencies to measure staff effectiveness in determining the staff makeup of the school. While we understand and appreciate the role the JCTA plays in your district, it is important that traditional processes not be relied upon when those processes prevent the district from fully utilizing the tools available under the restaffing or other turnaround options.

Should the district select the restaffing option, and seek to use transfers of staff that were part of a prior turnaround effort, the district should provide to the Commissioner evidence of the turnaround efforts, including any board action, the date this strategy began and specific staff transfers and hires made pursuant to the specific plan. This information will be reviewed and you will be informed of any necessary changes to ensure compliance with the SIG guidance.

I hope this technical assistance lends some direction as you make a determination of how to implement the best turnaround options as identified through federal guidelines. If I can be of further assistance as you move forward with plans to improve your schools, including the review of revised plans, please let me know. Tom Price, an ERD (Education Recovery Director) assigned to your district, is also an excellent resource for communication and information.

Sincerely,



Donna R. Tackett  
Acting Director  
Division of Consolidated Planning and Audits

cc: Dr. Terry Holliday  
Larry Stinson  
Kevin C. Brown