DEPARTMENT OF EDUCATION

[Docket ID ED–2009–OESE–0011]

RIN 1810–AB05

American Recovery and Reinvestment Act of 2009 (ARRA); Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended (ESEA); Part B, Section 611 of the Individuals With Disabilities Education Act (IDEA)

AGENCY: Office of Elementary and Secondary Education; Office of Special Education and Rehabilitative Services, U.S. Department of Education.

ACTION: Final notice of adjustments to Title I, Part A and IDEA, section 611 statutory caps on State administration for Federal fiscal year (FY) 2009.

SUMMARY: The U.S. Secretary of Education (Secretary) adjusts the statutory caps on State administration under Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (Title I, Part A), and Part B, section 611 of the Individuals with Disabilities Education Act (IDEA, section 611) with respect to data collection requirements pertaining to these two programs under the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5. The adjustments allow a State educational agency (SEA) to reserve additional State administrative funds from its FY 2009 allocations under Title I, Part A and IDEA, section 611 to help defray the costs of data collections that are specifically related to ARRA funding for these programs (including, for Title I, Part A, data collection related to waivers). An SEA may use administrative funds from its regular Title I, Part A and IDEA, section 611 appropriations; the additional administrative funds allowed by the adjustments in this notice; or a combination of these funds to meet the costs of ARRA-related data collection requirements for the Title I, Part A and IDEA, section 611 programs, respectively. For costs associated with ARRA data collections unrelated to Title I, Part A or IDEA, section 611, an SEA may use the State's Government Services grant under the State Fiscal Stabilization Fund (SFSF or Stabilization) program or funds allowable for that purpose under other ARRA programs.

DATES: The adjustments are effective November 27, 2009.

FOR FURTHER INFORMATION CONTACT:

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For IDEA, section 611: Dr. Andrew J. Pepin, U.S. Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Potomac Center Plaza, room 5106, Washington, DC 20202. Telephone: (202) 245–7605 or by e-mail: *Andrew.Pepin@ed.gov*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Programs: The ARRA provides billions of dollars in new funding for education in order to ''jump start'' school reform efforts and serve special populations while also saving and creating jobs and stimulating the economy. In particular, the ARRA provides $10 billion in new funding under Title I, Part A and $11.3 billion in new funding under IDEA, section 611. Title I, Part A provides assistance through SEAs to local educational agencies (LEAs) and schools with high concentrations of students from families that live in poverty to strengthen teaching and learning for students at risk of failing to meet State academic achievement standards and to close the achievement gap. Section 611 of IDEA provides funds through SEAs to LEAs to help them ensure that children with disabilities, from ages three through 21, have access to a free appropriate public education to meet each child's unique needs and prepare each child for further education, employment, and independent living.

Program Authority: Division A, Title XV, section 1552 of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111–5; 20 U.S.C. 6301 *et seq.* (Title I, Part A); 20 U.S.C. 1400 *et seq.* (IDEA, section 611).

Background

Section 1552 of the ARRA authorizes the Secretary, after following the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500), to ''reasonably adjust applicable limits on administrative expenditures for Federal awards to help [States] defray the costs of data collection requirements initiated pursuant to [the ARRA].'' The Title I, Part A and IDEA, section 611 programs, which received significant funding increases through the ARRA, have caps on the amount of funds for State administration that an SEA may reserve from its allocations for these programs.

Specifically, section 1004(b) of the ESEA restricts the amount of funds an SEA may reserve for State administration from its Title I, Part A allocation to no more than one percent of the amount the SEA would receive under Title I, Part A, if $14 billion were appropriated for Parts A, C, and D of Title I (with any SEA whose amount under section 1004(b) would be less than $400,000 permitted to reserve up to $400,000). The total amount appropriated in FY 2009 exceeds $14 billion, triggering this cap. Similarly, section 611(e)(1) of IDEA restricts the amount of funds an SEA may reserve for administration of the IDEA, Part B program to not more than the maximum amount the SEA was eligible to reserve for FY 2004 or $800,000 (adjusted annually for inflation), whichever is greater. (The Secretary is not adjusting the cap on State administration contained in section 619(e) of IDEA because the Department has concluded that the ARRA appropriation for section 619 results in a sufficient increase in the amount an SEA may reserve for State administration under that program.)

The ARRA imposes a number of specific data collection and reporting requirements on an SEA that substantially increase its data burden in administering Title I, Part A and IDEA, section 611. Specifically, the ARRA data collection requirements affecting Title I, Part A include, but are not limited to, the following:

- Each LEA that receives Title I, Part A ARRA funds must provide to its SEA, by December 1, 2009, a school-by-school listing of per-pupil education expenditures from State and local sources during school year 2008–2009. The SEA, in turn, must submit this information to the Department by March 31, 2010. This is a new data collection, as many SEAs do not currently collect this school-level information from their LEAs.
- Under section 1512 of the ARRA, an SEA must report, on a quarterly basis, specific information regarding its obligation and use of Title I, Part A ARRA funds.
- Under 2 CFR 176.210, an SEA and its LEAs must track Title I, Part A ARRA funds separately from their regular FY 2009 allocations, which will necessitate increased management and collection of data.
- An SEA will likely assume increased administrative responsibilities in a number of other areas related to ARRA data collection activities, including the following:
  - Providing guidance to LEAs regarding ARRA data quality, and

monitoring the quality of the ARRA data that LEAs must provide.

○ Monitoring and auditing LEAs' use of Title I, Part A ARRA funds.

○ Submitting requests for waivers of Title I, Part A requirements related to ARRA funds.

○ Collecting data to address the criteria involving Title I, Part A for ''Race to the Top'' submissions and other activities.

○ Supporting data collection activities affecting Title I, Part A ARRA funds and ARRA School Improvement Grants under section 1003(g) of the ESEA.

○ Addressing additional data collection requirements that could affect Title I, Part A ARRA funds.

Similarly, the ARRA data collection requirements affecting the programs funded through section 611 of IDEA include, but are not limited to, the following:

• Under section 1512 of the ARRA, an SEA must report, on a quarterly basis, specific information regarding its obligation and use of IDEA, section 611 ARRA funds.

• Under 2 CFR 176.210, an SEA and its LEAs must track IDEA, section 611 ARRA funds separately from their regular FY 2009 allocations, which will necessitate increased management and collection of data.

• An SEA will likely assume increased administrative responsibilities in a number of other areas related to ARRA data collection activities, including the following:

○ Providing guidance to LEAs regarding ARRA data quality and monitoring the quality of the ARRA data that LEAs must provide.

○ Monitoring and auditing LEAs' use of IDEA, section 611 ARRA funds.

○ Addressing additional data collection requirements that could affect the programs funded under IDEA, section 611.

We do not believe that Congress could have contemplated these additional data-related requirements that an SEA must implement under Title I, Part A and IDEA, section 611 when initially establishing the administrative caps for both programs. Accordingly, to provide States with some assistance in defraying the costs of meeting these additional requirements related to data collection under the ARRA, on August 17, 2009, we published a notice of proposed adjustments (NPA) to statutory caps on State administration in the **Federal Register** (74 FR 41402). There is one significant clarification between the NPA and this final notice, which we explain in the *Analysis of Comments and Changes* section.

Analysis of Comments and Changes: In response to our invitation in the NPA, 18 parties submitted comments. An analysis of the comments and of changes since publication of the NPA follows. Generally, we do not address technical and other minor changes.

Comment: Many commenters supported the proposed adjustments to the statutory caps on State administration under Title I, Part A and IDEA, section 611 with respect to the funds available under the ARRA. These commenters acknowledged that the ARRA data collection requirements impose increased costs at the State level and, therefore, expressed appreciation for the option to reserve additional State administrative funds from their FY 2009 allocations under Title I, Part A and IDEA, section 611 to help defray the costs of these new requirements. Some commenters suggested that the adjustments to the caps will assist SEAs in ensuring that LEAs use their Title I, Part A and IDEA, section 611 funds in an appropriate manner.

A few of the commenters who supported the proposed adjustments expressed concern that some SEAs will be unable to take advantage of these adjustments because they have already allocated ARRA funds to their LEAs. Those commenters were concerned that reserving funds at this point in time would require SEAs to recalculate LEA allocations, which, in turn, would cause LEAS to make extensive budget adjustments.

Discussion: The Secretary appreciates the support expressed by the commenters. In the course of considering these comments, we realized that the NPA inadvertently restricted an SEA's ability to take the increased administrative funds from its regular FY 2009 allocations. Although the amount of the increase in the administrative caps is based on the funds available through the ARRA, an SEA may reserve the increase in administrative funds from its Title I, Part A and IDEA, section 611 ARRA funds, its regular FY 2009 appropriations under those programs, or a combination of both. The ''Final Adjustments'' section below includes new language explicitly permitting an SEA to reserve the additional funds from its regular FY 2009 allocations and/or its ARRA allocations for Title I, Part A and IDEA, section 611. It also specifies that an SEA may exercise the options in 34 CFR 200.100(d) with respect to consideration of the applicable hold-harmless provisions under Title I, Part A. By clarifying these points, we intend to provide an SEA with additional flexibility in reserving State administrative funds that are the subject of this notice without unduly affecting its LEAs.

For example, with respect to Title I, Part A, at the same time an SEA reduces its LEAs' FY 2009 allocations to reserve additional State administrative funds, the SEA may have unused FY 2009 funds reserved under section 1003(a) or FY 2008 carryover funds that it can allocate to its LEAs under section 1126(c) of the ESEA. Likewise, under 34 CFR 300.705(c), if an SEA determines that an LEA is adequately providing a free appropriate public education (FAPE) with State and local funds to all children with disabilities residing in the area served by the LEA, the SEA may reallocate any portion of IDEA, section 611 funds to LEAs not adequately providing special education and related services to all children with disabilities or retain those IDEA funds that are not needed by that LEA if the SEA has not reserved the maximum amount for State-level activities, which in this year includes the adjustment to the administrative cap. An SEA also may retain IDEA funds that have not been obligated by an eligible LEA that is not serving any children with disabilities, up to the maximum amount for State-level activities, which in this year includes the adjustment to the administrative cap.

Changes: We have added language immediately prior to Table 1 and Table 2 in the adjustments, and revised the Note following Tables 1 and 2 to clarify that an SEA may reserve administrative funds, up to the caps as adjusted by this notice, from its funds for Title I, Part A and IDEA, section 611 available through the ARRA, the regular FY 2009 appropriations for those programs, or a combination of both. We also have included language before Table 1 noting that an SEA may exercise the options in 34 CFR 200.100(d) with respect to consideration of the applicable hold-harmless provisions.

Comment: A few commenters expressed concern that allowing an SEA to reserve additional funds for State administrative costs would decrease the amount of funds available to LEAs for programs for disadvantaged children, low-performing schools, and students with disabilities.

Discussion: With the enactment of the ARRA, Congress appropriated an additional $10 billion in Title I, Part A funds and an additional $11.3 billion in IDEA, section 611 funds for FY 2009. The ARRA imposed a number of specific data collection and reporting requirements on SEAs that significantly increase SEAs' data burden in administering Title I, Part A and IDEA,

section 611. Congress could not have contemplated these additional ARRA requirements when initially establishing the administrative caps for Title I, Part A and IDEA, section 611 because it established the caps well before the ARRA's enactment. Therefore, we believe it is appropriate to adjust the caps to defray the costs of implementing the data collection requirements associated with the ARRA.

We do not believe the cap adjustments will substantially affect direct services for students under Title I, Part A or IDEA, section 611. In FY 2009, States received their regular fiscal year awards allocated under those programs. In addition to these regular amounts, the ARRA provided billions of dollars in new funding for the Title I, Part A and IDEA, section 611 programs. Of the additional $10 billion in Title I, Part A funds available through the ARRA, the maximum additional amount an SEA may reserve is 0.5 percent of the State's FY 2009 Title I, Part A ARRA allocation, or $1,000,000, whichever is less. Similarly, of the additional $11.3 billion in IDEA, section 611 funds available through the ARRA, the maximum additional amount an SEA may reserve is 0.1 percent of the State's FY 2009 IDEA, section 611 allocation, or $500,000, whichever is less. If all SEAs reserved the maximum amounts of additional administrative funds under Title I, Part A and IDEA, section 611 funds allowed by this notice, the increase would amount to less than 0.2 percent of the combined ARRA Title I, Part A and IDEA, section 611 funding. Although we understand the commenters' concerns about reserving additional funds for State administration at the expense of LEAs, we believe the additional amount of funds that an SEA may reserve is necessary to assist the SEA in meeting its ARRA data reporting requirements. Moreover, LEAs also will benefit from an SEA's use of these funds through, for example, the SEA's ability to implement waivers with respect to its LEAs or assist its LEAs in evaluating the effectiveness of their programs funded through the ARRA.

Changes: None.

Comment: Some commenters argued that the proposed adjustments did not provide enough additional resources to an SEA, given the SEA's additional responsibilities under the ARRA, as well as reporting requirements for other Department ARRA programs.

Discussion: The Secretary's intent in adjusting the State administrative caps for Title I, Part A and IDEA, section 611 is to provide SEAs with a reasonable amount of additional administrative resources to help defray the costs of ARRA-related data collections under those programs without substantially affecting LEA services to students. We note that an SEA may not use the additional administrative funds it may reserve under Title I, Part A and IDEA, section 611 pursuant to this notice, no matter how large that amount might be, to comply with data collection requirements under other ARRA programs. Rather, the SEA may use funds available for administration under those other programs or its Government Services funds under the SFSF program to cover increased administrative costs.

Changes: None.

Comment: One commenter asked that the Secretary also consider adjusting Federal caps on administrative expenses at the LEA level in light of ARRA funding.

Discussion: Even with the SEA administrative cap adjustments, almost all LEAs will have considerably more Title I, Part A and IDEA, section 611 resources in FY 2009 compared to previous years due to the additional $10 billion in Title I, Part A ARRA funds and $11.3 billion in IDEA, section 611 funds. In addition, while LEAs also are subject to new data collection requirements under the ARRA with respect to Title I, Part A and IDEA, section 611, there is no Federal cap on administration at the LEA level for either program.

Changes: None.

Comment: One commenter asked if the Department had information on whether States planned to use the Government Services grant under the SFSF program to meet ARRA's reporting requirements.

Discussion: States were not required to indicate in their initial applications for SFSF funds how they intended to spend Government Services funds, although a State has the option of providing that information to the Department. Seven States, however, indicated in their SFSF applications that they would use Government Services funds to pay for activities related to reporting or administering the SFSF. In addition, a State may amend its application to revise how it will spend its Government Services funds. The Department does not have any information indicating that States are using their SFSF funds to free up other State funds that could then be used to pay for reporting and administrative activities.

Changes: None.

Comment: A commenter asked how an adjustment to the administrative caps for Title I, Part A and IDEA, section 611 would relate to funding that a State is permitted to recover through its State-wide Cost Allocation Plan (SWCAP).

Discussion: A State's SWCAP has no effect on the amount of Title I, Part A and IDEA, section 611 funds an SEA may reserve for administration. A modification to a State's SWCAP approved by the Federal Government might affect the amount of Title I, Part A and IDEA, section 611 administrative funds an SEA may use for indirect costs in relation to other administrative expenses but not the overall amount of Title I, Part A funds and IDEA, section 611 funds the SEA may reserve for administration.

Changes: None.

Comment: One commenter asked how the Department established the proposed adjustments to the State administrative caps and what criteria the Department used when calculating the funding levels.

Discussion: The final adjusted caps are based on the additional reporting requirements that the ARRA prescribes for SEAs with respect to the Title I, Part A and IDEA, section 611 programs. The adjusted caps recognize that both programs currently have administrative caps that do not take into account these new requirements.

As we explained in the NPA, the adjustments include: (1) A floor to the amount that may be reserved that enables an SEA, on average, to add at least the equivalent of one additional full-time-equivalent (FTE) employee for each program; and (2) a ceiling that, although limiting the amount that may be reserved, enables an SEA, on average, to add the equivalent of ten FTEs for Title I, Part A and five FTEs for IDEA, section 611. This approach parallels the manner in which an SEA may reserve funds for administration under Title I, Part A and IDEA, section 611 (*i.e.*, in both statutes the amount an SEA may reserve for administration is based on the amount the SEA has received under each program with a minimum and maximum factored in). We also reached these specific adjustment figures following consultations with staff in several SEAs, our own experience with data collections, a review of the ARRA data collection requirements, and consideration of the amounts an SEA may currently reserve for administration under both programs.

Changes: None.

Comment: Several commenters asked why the amount of the Title I, Part A adjustment differed from the amount for IDEA, section 611.

Discussion: The adjustments for Title I, Part A are higher than those for IDEA, section 611 because Title I, Part A has more ARRA reporting requirements. For

example, the ARRA requires the Department to collect from SEAs by March 31, 2010, a report of school-by-school expenditures of State and local funds for LEAs receiving Title I, Part A funds. Because this is a new data collection for many SEAs, which do not currently collect this school-level information from their LEAs, we believe SEAs will have additional responsibilities to provide guidance to LEAs and monitor the quality of these data. Similarly, we believe SEAs need additional administrative resources to take on new responsibilities related to the large increase in school improvement funds available through the ARRA.

Changes: None.

Comment: One commenter asked whether, in establishing the adjusted caps, the Department analyzed individual State capacity to meet the ARRA reporting requirements and whether it surveyed SEAs and LEAs about their data systems' capacity to provide the required information to the Federal government.

Discussion: The Department did not conduct a formal analysis or survey. However, as indicated earlier, we did discuss the idea of adjusting the caps on State administration under Title I, Part A and IDEA, section 611 with representatives of SEAs in a variety of settings, including conference calls, informal telephone calls, professional conferences, and meetings of State directors of Title I and IDEA. Through these conversations, we heard about the challenges SEAs face with meeting the new data collection requirements within the existing administrative caps.

The Secretary did not consult directly with LEAs on this matter. LEAs, unlike SEAs, are not subject to an administrative cap under Title I, Part A or IDEA, section 611. We note that, because of the ARRA, almost all LEAs, even with this one-time adjustment to State administrative caps, have received unprecedented amounts of Title I, Part A and IDEA, 611 funds.

Changes: None.

Comment: One commenter suggested that the Department was imposing additional burden on SEAs by inviting them to request waivers of certain ARRA-related Title I requirements. Another commenter asked the Department to reduce the burden on SEAs and LEAs of reporting Title I, Part A school-by-school State and local expenditures.

Discussion: We wish to make clear that no SEA is required to request a waiver of any Title I, Part A requirement. The Secretary believes, however, that waivers with respect to certain Title I, Part A ARRA-related provisions and to the maintenance of effort requirements that SEAs may request could be particularly helpful to LEAs. (Information on these waivers is available at *http://www.ed.gov/programs/titleiparta/title-i-waiver.doc.*) Rather than processing thousands of LEA requests and risking significantly delaying approval of those requests, the Secretary invited SEAs to apply on behalf of their LEAs. Although this approach benefits both SEAs and LEAs, it does entail some additional administrative costs for SEAs, which is why we are permitting an SEA that requests and receives waivers of Title I, Part A ARRA-related requirements or maintenance of effort to reserve more State administrative funds.

With respect to easing the burden of reporting school-by-school expenditures of State and local funds, we note that this report is expressly required by the ARRA. In devising the data collection instrument for this report, we have been mindful of the burden this requirement could create and have proposed, for public comment, data items that we believe LEAs already must collect for other reporting purposes.

Changes: None.

Comment: One commenter asked whether burden estimates related to ARRA data collection requirements are available.

Discussion: Concerning ARRA-related burden hours for collections initiated by the Department with respect to Title I, Part A, see the following links:

- *http://edicsweb.ed.gov/browse/browsecoll.cfm?pkg_serial_num=4119*; and
- *http://edicsweb.ed.gov/browse/browsecoll.cfm?pkg_serial_num=4002.*

For information on quarterly reporting burden hours required by section 1512 of the ARRA, see the following link:

http://edocket.access.gpo.gov/2009/E9-24320.htm.

Changes: None.

Final Adjustments:

Title I, Part A:

Notwithstanding section 1004(b) of the ESEA and 34 CFR 200.100(b)(3), the Secretary adjusts the administrative cap under Title I, Part A to:

1. *Provide administrative funds to support ARRA data collection, excluding data collection for obtaining and implementing Title I, Part A waivers related to the ARRA and maintenance of effort.* The Secretary adjusts the statutory cap on State administration under section 1004(b) of the ESEA to permit an SEA to reserve, from its FY 2009 Title I, Part A allocation, an amount equal to or less than the figure shown for the State in Column 2 in Table 1 to help defray the costs associated with Title I, Part A ARRA data collection. The amount shown in Column 2 for each State is equal to 0.3 percent of the portion of the State's FY 2009 Title I, Part A allocation attributable to the ARRA, or $600,000, whichever is less.[1] A State's amount in Column 2 is $100,000 if 0.3 percent of the State's Title I, Part A ARRA allocation is less than $100,000.

2. *Provide administrative funds to support ARRA data collection, including data collection for obtaining and implementing Title I, Part A waivers related to the ARRA and maintenance of effort.* The Secretary adjusts the Title I, Part A administrative cap to allow an SEA that requests and receives a waiver under Section C (Waivers related to Title I, Part A ARRA Funds) or Section E (Waivers of Maintenance of Effort for LEAs) of the Department's Non-Regulatory Guidance on Title I, Part A Waivers[2] (Title I, Part A Waiver Guidance) to reserve a larger amount of additional administrative funds than it would otherwise be permitted to reserve. Specifically, in this case, the Secretary permits an SEA to reserve, from its FY 2009 Title I, Part A allocation, an amount equal to or less than the figure shown for the State in Column 3 in Table 1. These funds can help defray the costs associated with Title I, Part A ARRA data collection, including additional data collection costs that an SEA may have already incurred or will incur in processing requests from its LEAs that wish to benefit from waivers the SEA has received or may request.

The amount shown in Column 3 for each State is equal to 0.5 percent of the portion of the State's FY 2009 Title I, Part A allocation attributable to the ARRA, or $1,000,000, whichever is less. A State's amount in Column 3 is $200,000 if 0.5 percent of the State's Title I, Part A ARRA allocation is less than $200,000.

The amount in Column 2 or 3 that each SEA may reserve is in addition to the amount the SEA is able to reserve for State administration under section 1004(b) of the ESEA.

Note: An SEA may only reserve additional funds for administration up to the amount shown in Column 3 if it has received a

[1] The U.S. Department of Education's budget page [available at *http://www.ed.gov/about/overview/budget/statetables/10stbyprogram.pdf*] shows the amount each State received in Title I, Part A ARRA funds.

[2] The guidance provides comprehensive information on how to request a waiver of specific statutory and regulatory provisions of Title I, Part A and is available at [*http://www.ed.gov/programs/titleiparta/title-i-waiver.doc*].

waiver from the Department under Section C or E of the Title I, Part A Waiver Guidance. An SEA that has not received such a waiver may only reserve additional funds for administration up to the amount shown in Column 2. (In other words, an SEA may reserve either the amount in Column 2 or the amount in Column 3, as appropriate.)

An SEA may reserve these additional funds from its regular FY 2009 Title I, Part A allocation, its Title I, Part A ARRA allocation, or a combination of the two allocations provided that the total amount reserved does not exceed the figure listed in Column 2 or Column 3 for each State. An SEA may only reserve these additional funds from the allocations of LEAs receiving Title I, Part A ARRA funds. In reserving these additional funds, an SEA may exercise the options in 34 CFR 200.100(d) with respect to consideration of the applicable hold-harmless provisions.

TABLE 1—TITLE I, PART A

Column 1	Column 2 (Administrative funds for ARRA data collection excluding data collection for waivers)*	Column 3 (Administrative funds for ARRA data collection including data collection for waivers)*
Alabama	$488,908	$814,846
Alaska	100,000	200,000
Arizona	585,262	975,437
Arkansas	333,276	555,461
California	600,000	1,000,000
Colorado	333,408	555,680
Connecticut	212,143	353,571
Delaware	100,000	200,000
District of Columbia	112,807	200,000
Florida	600,000	1,000,000
Georgia	600,000	1,000,000
Hawaii	100,000	200,000
Idaho	104,867	200,000
Illinois	600,000	1,000,000
Indiana	506,031	843,385
Iowa	154,491	257,485
Kansas	212,604	354,340
Kentucky	466,044	776,739
Louisiana	531,470	885,784
Maine	111,553	200,000
Maryland	407,875	679,792
Massachusetts	491,041	818,401
Michigan	600,000	1,000,000
Minnesota	284,133	473,555
Mississippi	398,665	664,442
Missouri	443,185	738,642
Montana	103,950	200,000
Nebraska	143,427	239,045
Nevada	210,378	350,631
New Hampshire	100,000	200,000
New Jersey	548,914	914,856
New Mexico	242,410	404,017
New York	600,000	1,000,000
North Carolina	600,000	1,000,000
North Dakota	100,000	200,000
Ohio	600,000	1,000,000
Oklahoma	328,328	547,213

TABLE 1—TITLE I, PART A—Continued

Column 1	Column 2 (Administrative funds for ARRA data collection excluding data collection for waivers)*	Column 3 (Administrative funds for ARRA data collection including data collection for waivers)*
Oregon	281,207	468,678
Pennsylvania	600,000	1,000,000
Puerto Rico	600,000	1,000,000
Rhode Island	107,503	200,000
South Carolina	428,517	714,195
South Dakota	103,950	200,000
Tennessee	582,225	970,374
Texas	600,000	1,000,000
Utah	148,609	247,681
Vermont	100,000	200,000
Virginia	496,056	826,760
Washington	405,369	675,615
West Virginia	182,944	304,906
Wisconsin	443,188	738,647
Wyoming	100,000	200,000

For the purposes of this table, ''waivers'' refer to waivers described in Section C or E of the Title I, Part A Waiver Guidance that have been obtained by an SEA from the Department.

IDEA, Section 611

Notwithstanding section 611(c)(1) of IDEA and 34 CFR 300.704(a), the Secretary adjusts the statutory cap on State administration to permit an SEA to reserve, from its FY 2009 IDEA, section 611 allocation, an amount equal to or less than the figure shown for such State in Column 2 in Table 2 to help defray the costs associated with ARRA data collection under IDEA, section 611. The amount for each State shown in Column 2 is equal to 0.1 percent of the portion of the State's FY 2009 IDEA, section 611 allocation attributable to the ARRA, or 500,000, whichever is less.[3] A State's amount in Column 2 is 100,000 if 0.1 percent of the State's IDEA, section 611 ARRA allocation is less than $100,000. The amount each SEA may reserve is in addition to the amount the SEA is able to reserve for State administration under section 611(e)(1) of the IDEA.

An SEA may reserve these additional funds from its regular FY 2009 IDEA, section 611 allocation, its IDEA, section 611 ARRA allocation, or a combination of the two allocations provided that the total amount reserved does not exceed the figure listed in Column 2 for each State. An SEA may only adjust the allocations of LEAs receiving IDEA, section 611 ARRA funds in order to reserve the additional amount.

[3] The U.S. Department of Education's budget page [available at *http://www.ed.gov/about/overview/budget/statetables/10stbyprogram.pdf*] shows the amount each State received in IDEA, section 611 ARRA funds.

TABLE 2—IDEA, SECTION 611

Column 1	Column 2
Alabama	$181,865
Alaska	100,000
Arizona	178,476
Arkansas	112,178
California	500,000
Colorado	148,731
Connecticut	132,971
Delaware	100,000
District of Columbia	100,000
Florida	500,000
Georgia	313,758
Hawaii	100,000
Idaho	100,000
Illinois	500,000
Indiana	253,535
Iowa	122,095
Kansas	106,872
Kentucky	157,570
Louisiana	188,750
Maine	100,000
Maryland	200,242
Massachusetts	280,552
Michigan	400,608
Minnesota	189,839
Mississippi	117,836
Missouri	227,175
Montana	100,000
Nebraska	100,000
Nevada	100,000
New Hampshire	100,000
New Jersey	360,691
New Mexico	100,000
New York	500,000
North Carolina	314,410
North Dakota	100,000
Ohio	437,736
Oklahoma	147,925
Oregon	128,979
Pennsylvania	427,178
Puerto Rico	109,098
Rhode Island	100,000
South Carolina	173,240
South Dakota	100,000
Tennessee	229,613
Texas	500,000
Utah	105,541
Vermont	100,000
Virginia	281,415
Washington	221,357
West Virginia	100,000
Wisconsin	208,200
Wyoming	100,000

Note to Tables 1 and 2: The adjustments in this notice are based on funds available to each State under the ARRA. The adjustments in this notice to the amounts an SEA may reserve for administration under Title I, Part A and IDEA, section 611 do not apply to the reservation of funds for administration in any other fiscal year (i.e., Title I, Part A and IDEA, section 611 allocations for FY 2008, FY 2010, and subsequent years).

Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether this

regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and to review by OMB. Section 3(f) of Executive Order 12866 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 $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities in a material way (also referred to as an ''economically significant'' rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. Pursuant to the Executive order, the Secretary has determined that this regulatory action is significant under section 3(f)(4) of the Executive order.

This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action and we have determined that the benefits of the adjustments justify the costs.

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

Accessible Format: Individuals with disabilities may obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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Dated: October 22, 2009.

Arne Duncan,

Secretary of Education.

[FR Doc. E9–25839 Filed 10–26–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Board for Education Sciences

AGENCY: Department of Education, Institute of Education Sciences.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Board for Education Sciences. The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend the open portion of the meeting. This notice is being posted less than 15 days prior to the meeting due to logistical issues with scheduling the meeting.

DATES: November 9, 2009.

Time: 8:30 a.m. to 5 p.m.

ADDRESSES: 80 F Street, NW., Room 100, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Norma Garza, Executive Director, National Board for Education Sciences, 555 New Jersey Ave., NW., Room 602 K, Washington, DC 20208; *phone:* (202) 219–2195; *fax:* (202) 219–1466; *e-mail: Norma.Garza@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002 (ESRA). The Board advises the Director of the Institute of Education Sciences (IES) on the establishment of activities to be supported by the Institute, on the funding for applications for grants, contracts, and cooperative agreements for research after the completion of peer review, and reviews and evaluates the work of the Institute. At this time, the Board consists of only six of fifteen appointed members due to the expirations of the terms of nine members. The Board shall meet and can carry out official business because the ESRA states that a majority of the voting members serving at the time of a meeting constitutes a quorum.

On November 9 from 8:30 a.m. to 8:45 a.m., the Board will approve the agenda and hear remarks from the chair and the executive director. From 8:45 a.m. to 10 a.m., IES director John Easton will give an update on the work of the agency, followed by updates on the IES centers until 11:30 a.m. Ex officio members will give overviews of their agencies' work from 11:30 a.m. to 12:30 p.m., after which there will be a break for lunch until 2 p.m.

The afternoon's sessions will include a Practice Guides Overview from 2 to 3 p.m. This will be followed by presentations on recently released IES Teacher Quality Evaluations and a discussion of findings, which will conclude at 4:30 p.m. The Board will conclude the meeting with a consideration of summary views and next steps prior to adjournment at 5 p.m. A final agenda will be available from Norma Garza (see contact information above) on October 26. Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistance listening devices, or materials in alternative format) should notify Norma Garza no later than October 26. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Committee proceedings and are available for public inspection at 555 New Jersey Ave., NW., Room 602 K, Washington, DC 20208, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

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