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Part III

Department of Education

Carol M. White Physical Education Program; Notices

DEPARTMENT OF EDUCATION

Carol M. White Physical Education Program; Catalog of Federal Domestic Assistance (CFDA) Number: 84.215F

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of final priorities, requirements, and definitions.

SUMMARY: The Assistant Deputy Secretary for Safe and Drug-Free Schools announces priorities, requirements, and definitions for the Carol M. White Physical Education Program (PEP). The Assistant Deputy Secretary may use one or more of these priorities, requirements, and definitions for competitions in fiscal year (FY) 2010 and later years. We take this action to align PEP projects more closely with best practices and research related to improving children's health and fitness, to improve students' physical activity, and to improve students' ability to meet their State physical education standards.

DATES: *Effective Date:* These priorities, requirements, and definitions are effective July 19, 2010.

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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 Program: The purpose of PEP is to initiate, expand, and improve physical education for students in grades K–12.

Program Authority: 20 U.S.C. 7261–7261f.

Applicable Program Regulations: 34 CFR part 299.

We published a notice of proposed priorities, requirements, and definitions (NPP) in the **Federal Register** on March 16, 2010 (75 FR 12522). That notice contained background information and our reasons for proposing the particular priorities, requirements, and definitions.

There are several differences between the NPP and this notice of final priorities, requirements, and definitions (NFP) as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice.

Public Comment: In response to our invitation in the NPP, 59 parties submitted comments on the proposed priorities, requirements, and definitions.

We discuss substantive issues under the title of the item to which they pertain. Generally, we do not address technical and other minor changes, or suggested changes we are not authorized to make under the applicable statutory authority. In addition we do not address general comments that raised concerns not directly related to the proposed priorities or requirements.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, and definitions since publication of the NPP follows.

Absolute Priority—Programs Designed To Create Quality Physical Education Programs

Comment: One commenter suggested rewriting the absolute priority to include improving physical education as an educational outcome.

Discussion: We consider an improvement in physical education to be an educational outcome and do not see the need to include additional outcomes. The absolute priority clearly requires applicants to propose projects that address physical education. More specifically, the absolute priority requires every applicant to develop, expand, or improve its physical education program and address its State's physical education standards. Additionally, an applicant must provide instruction in healthy eating habits and implement at least one of the other program elements as described in the program statute (see sections 5501–5507 of the Elementary and Secondary Education Act of 1965, as amended; 20 U.S.C. 7261–7261f). These 2010 program requirements will help applicants develop a strategic approach to improving physical education and nutrition instruction by requiring an assessment of local efforts to address identified deficiencies.

Changes: None.

Comment: Some commenters suggested that encouraging students to engage in moderate to vigorous exercise should be the primary focus of PEP. Some commenters also suggested that increasing the proportion of time in which students in physical education classes are active should be a priority.

Discussion: We agree that moderate to vigorous physical activity by students and increasing the proportion of time that students are active in physical education classes are important outcomes for physical education programs, but disagree with the commenters that these should be the exclusive or primary focus of PEP. Instead, we believe that a comprehensive approach, incorporating both high-quality physical education and nutrition instruction strategies, offers the best opportunity for students to acquire the knowledge and skills necessary to help them understand the complementary relationship between physical education and nutrition, and the role that both of these areas can play in improving their health.

Further, we believe that the program requirements we are establishing will promote the types of programs that will improve the percentage of students who engage in moderate to vigorous physical activity during physical education classes and throughout the day. Through these requirements, we highlight the importance of initiatives that move students from being sedentary, often because of a lack of high-quality programming, to being more active, and towards a lifestyle that includes moderate to vigorous physical activity in various settings, including in physical education classes. The requirements reflect an approach that looks not just at student-level improvements, but at broad, systemic changes that will be sustained over time to continually improve opportunities for students to engage in moderate to vigorous physical activity. If grantees would like to assess the time that students engage in moderate to vigorous physical activity, we would encourage them to do so and have designed at least one of our required performance measures to support this type of assessment. For all of these reasons, we believe that improvements to physical education programs under PEP will result in more active time for students during physical education classes, resulting in improved student outcomes, and that there is no need to focus explicitly on moderate to vigorous physical activity and increased activity time in physical education classes as part of the absolute priority.

Changes: None.

Comment: One commenter suggested that all six of the PEP elements included in the program's authorizing statute be part of all quality physical education programs.

Discussion: We agree that all six elements are important facets of a comprehensive program, and applicants may propose to include all six elements as part of their proposed project if desired. At this time, however, we are not requiring applicants to include in their projects all six of the PEP program elements, because we want to provide flexibility for applicants to select approaches and activities that are linked to the priority needs identified for their schools and communities. We believe the absolute priority appropriately balances the positive aspects of moving to a more comprehensive approach with

flexibility for applicants to design a project that effectively addresses their particular needs.

Changes: None.

Comment: One commenter expressed concern that the competitive preference priorities do not address the absolute priority.

Discussion: The competitive preference priorities are designed to encourage applicants to develop proposals that will result in stronger PEP projects within the context of the absolute priority.

We note that, in our judgment, the adoption of either, or both, of the approaches identified as competitive preference priorities is likely to produce superior results. Both competitive preference priorities are likely to enhance long-term sustainability by encouraging efforts to leverage community resources and to build community investment in the program (partnership), and also efforts to provide data to policymakers so that they can make informed decisions about budget and programming in the future. An effective PEP project could be implemented without a grantee engaging in either competitive preference priority, which is why we opted not to require either or both.

Changes: None.

Comment: One commenter expressed a desire to increase accountability in PEP, and suggested that adding the term "assessment" to each of the program elements in the absolute priority would emphasize the need for assessment to be part of activities implemented as part of a PEP grant.

Discussion: We agree that PEP would be strengthened by increasing the emphasis on assessment, evaluation, and accountability, and have already incorporated requirements in the final priorities, requirements, and definitions to address this concern. For example, we are ensuring accountability in the program by requiring the use of assessment tools such as the Physical Education Curriculum Assessment, the Health Education Curriculum Assessment, and the School Health Index, all of which enhance program assessment. As a result, we do not believe that it is necessary to make the change suggested by the commenter.

Changes: None.

Comment: Several commenters expressed a concern that requiring PEP grantees to address the program element related to nutrition instruction would weaken the focus on physical education and dilute limited funding available to support activities designed to improve physical education.

Discussion: We believe that a PEP project that incorporates both high-quality physical education and nutrition instruction strategies offers the best opportunity for students to acquire the information and skills necessary to help them understand the complementary relationship between physical education and nutrition, and understand the role that physical activity and nutrition can play in improving and maintaining their health.

Furthermore, the legislation authorizing PEP has always included nutrition instruction as a program element and a significant number of past PEP grantees have elected to incorporate nutrition instruction in their projects. Generally, costs associated with including nutrition instruction have represented a fairly modest proportion of project funds, especially when compared to the costs of purchasing fitness equipment.

Changes: None.

Comment: Several commenters asked us to emphasize in the absolute priority the use of evidence-based approaches or established best practices in the field. For example, some commenters suggested that the Department focus the priority on research-based curriculum design, which is common in other subjects such as math, reading, and science, and encourage use of similar strategies for physical education, including alignment of curriculum, instruction, and assessment; other commenters stated that the Department should emphasize a variety of evidence-based approaches for which information is readily available via the Internet. Another commenter suggested that we fund only programs that use evidence-based approaches.

Discussion: We agree that use of research-based programs and established best practices strategies by PEP grantees would likely improve program outcomes. However, there is a limited research base of effective programs and strategies that would be applicable to the scope of PEP and relevant to all communities and applicants, and additionally, we want to encourage innovation in this area. We believe that the program requirements that require implementation of the School Health Index (SHI) assessment, as well as of the Physical Activity Curriculum Analysis Tool (PECAT) and the Health Education Curriculum Analysis Tool (HECAT) curriculum assessments will help applicants compare their current activities to established best practices in the field.

We provide examples of a range of resources for evidence-based practices in the application package, including some of those suggested by one commenter. We encourage applicants to refer to those resources, as well as other resources, to design an evidence-based program that addresses the applicant's greatest needs.

Changes: None.

Comment: One commenter requested that we more clearly define what we mean by the absolute priority elements concerning motor skills, physical activity, and the development of positive social and cooperative skills.

Discussion: We believe that the statutory language is sufficiently clear; these are terms that are commonly understood in the field or may be specifically defined in State standards. Accordingly, we do not believe it is necessary to define them here.

Changes: None.

Competitive Preference Priority 1—Collection of Body Mass Index Measurement

Comment: One commenter suggested that PEP grantees secure BMI information from physicians' offices and that this approach would help address some of the issues related to collection of BMI data, including privacy concerns and the need to purchase equipment and provide training on collecting BMI data.

Discussion: We believe that the approach suggested by the commenter would introduce different data collection and reporting challenges. For example, it is unlikely that all students have regular physicians that maintain wellness and other records. Also, physicians might not have collected BMI information and could not be compelled to furnish this information if it is available. Grantees and physicians would also need to be sure that requirements are satisfied concerning the non-consensual sharing of any protected health-related information or personally identifiable information from education records, such as the requirements contained in Federal, State, and local laws, regulations, and policies regarding student level data collection and privacy.

Changes: None.

Comment: One commenter urged the Department to exercise caution in using measures such as BMI to measure progress for the program, and indicated that the measures required under the Government Performance and Results Act of 1993 (GPRA) included in requirement 9 are more appropriate measures for short-term grant projects.

Discussion: We agree with the commenter. The competitive preference priority concerning BMI is designed to provide important aggregate information

about the health status of students generally, and should serve as a surveillance tool for grantees that elect to implement the priority, not as a measure of program performance. We believe that the performance measures included as part of requirement 9 will complement the collection of BMI data by providing a range of measures that will permit grantees to assess improvements in several key areas, and provide data that the Department can use to help assess the overall effectiveness of PEP.

Changes: None.

Comment: Some commenters expressed concerns about the need to have appropriate supports in place for students and families when BMI data are reported. For example, one commenter expressed concern that the collection and reporting of BMI data to students and parents without appropriate information could be associated with an increase in eating disorders and urged the Department to provide technical assistance to PEP grantees to help address this concern. Another commenter suggested that grantees collecting BMI data have a system in place to refer students with weight concerns to qualified health professionals for additional assessment and intervention if that is needed.

Discussion: We agree that careful consideration should be given to the complex policy and practice questions related to BMI data collection, particularly if BMI information is to be shared with both students and parents. The competitive preference priority requires that grantees who choose to address the priority ensure that their plan includes resources for safe and effective follow-up with trained medical care providers when BMI data suggest that such follow-up services are needed.

We plan to include in the application package a reference to available resources to help applicants implement these kinds of activities in the safest and most effective way possible, including the Centers for Disease Control and Prevention's (CDC) Children's BMI Tool for Schools; that information is available online at *http://www.cdc.gov/healthyyouth/obesity/bmi/.* We will also offer technical assistance to applicants and grantees to ensure that students' privacy is protected and that procedures are carried out in a manner that is confidential and sensitive to all students' privacy.

We note that recent research shows no increase in eating disorders or disordered eating behaviors following an increased focus on obesity prevention. Data from Arkansas, where schools have been collecting BMI from students for several years, show no increase in eating disorders.[1]

Changes: None.

Comment: Several commenters suggested that we use an additional or alternative measure to BMI to assess population health status and the impact of PEP, including measures collected by a commercial fitness assessment tool, bioelectric impedance, skin fold tests, or measures such as attendance and academic performance that may correlate with fitness and health.

Discussion: BMI is relatively easy to measure, can be done quickly and non-invasively, and provides a standard tool for measuring and assessing student weight status across a site or between sites. We have opted to use the CDC's BMI-for-age growth charts as our standard for measurement and assessment because this approach represents the recommended method of reporting size and growth patterns among children in the United States. The CDC BMI-for-age growth charts provide a full array of percentile levels, which allows for greater interpretation of weight status in the population and among individuals. The CDC 2000 growth charts provide the best reference data available for the growth of U.S. children. Additionally, using the same method for interpreting BMI data collection will allow for data comparisons across PEP sites.

Applicants that opt to undertake BMI measurement and assessment as part of their project should describe their plan to obtain student-level data, consistent with the Family Education Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Act Amendment (PPRA), which may be done using commercial fitness testing products that applicants may already have in use. The raw height and weight data collected using this tool can be easily converted to correspond with the CDC BMI-for-age growth charts, which must be used to be responsive to the competitive preference priority.

Changes: None.

Comment: One commenter expressed concern about BMI measurement and the lack of evidence that use of BMI measurements will lead to more physical activity or improved physical education programs.

Discussion: The use of BMI assessment data under this competitive priority is intended to create a mechanism to understand trends at the population level, including in the context of the other required measures of this program, in fitness, physical activity, and nutrition, and how the combination of these measures can be used to improve physical education programming and policy, and potentially help students meet their State standards for physical education.

The use of BMI assessment data would inform program planners about overall trends in the population's weight status, which may be used to inform decisions about programming and policy at the program site and in the broader community. BMI data are not intended to be used to measure a project's success; projects might not even reasonably expect to see major changes in BMI scores during the project period. Rather, applicants that choose to address the competitive preference priority for collecting and reporting BMI data should consider how BMI information would be used in the context of the required measures for PEP. We also encourage applicants who choose to address this priority to use this opportunity to create or enhance sustainable systems that can be used to make data-based decisions for continuous program improvement.

Changes: None.

Comment: Some commenters expressed concern that some States permit the collection and use of BMI data, while other States might prohibit or have restrictions on the collection and use of such data. One commenter cited States that already require the use of BMI data, potentially providing an advantage to applicants from those States. Similarly, another commenter suggested that some States may prohibit BMI assessment and that including BMI assessment as a competitive preference priority would place applicants from those States at a disadvantage. These commenters suggested that if BMI assessment is included in the program, that applicants not receive any additional points for electing to implement a plan to use such data.

Discussion: While applicants that are already collecting BMI data may be able to implement the competitive preference priority more quickly if their project is funded, they will not have any advantage over other applicants because the priority requires only that applicants demonstrate their commitment to addressing the elements of the priority by including an assurance with their application. Grantees will be able to use program funds to obtain equipment, training, and other resources necessary to assist them in effectively implementing this competitive preference priority, helping to level the playing field for all applicants.

We do not believe that there are any States that prohibit BMI data collection,

[1] Schwarz M. and Henderson K. Does obesity prevention cause eating disorders? *J Am Acad Child Adolesc Psychiatry,* 2009, 48(8):784–786.

but we encourage applicants to understand and follow Federal, State, and local laws, regulations, and policies regarding student-level data collection and privacy.

Change: None.

Comment: One commenter suggested that the complexity involved with BMI data collection could discourage smaller educational entities and communities from applying for a grant.

Discussion: We understand that collecting and reporting BMI data might pose challenges for applicants. If small school districts or communities need additional assistance to implement the competitive preference priority, they should include costs associated with collecting and reporting BMI data in their proposed budget. Allowable costs might include, for example, additional staff time to facilitate collection and reporting, purchase of needed equipment, purchase of technical assistance services, professional development costs, or resources to develop and disseminate information to parents and the community about BMI data.

Changes: None.

Comment: We received several comments expressing concern that BMI data interpreted in isolation at the individual level might not provide an accurate assessment of health status, particularly for athletes, or at the program level to assess project goals.

Discussion: The intent of the BMI data collection is to provide a population-level analysis of the weight status of the student population, at the school, site, or district level. Although applicants should consider whether and how individual assessments may be shared with students and their families, the intent of this priority is focused on population surveillance. BMI assessment is also not necessarily intended to serve as an assessment of the program's short- or long-term goals. Program planners should consider how they will use the data to assess the impact of the program on the population's weight patterns but we expect that the changes as a result of PEP implementation may take longer than the project period. We have measures to assess the project's goals, such as physical activity, that are, in theory, directly affected by the activities that grantees will implement.

Changes: None.

Comment: Two commenters suggested that the Department provide specific instructions on how to collect BMI data. The commenters stated that this information should be included on CDC's Web site.

Discussion: We agree that careful planning and training should be undertaken for projects that elect to address the proposed competitive preference priority concerning BMI assessment. As a result, we plan to include in the application package a reference to examples of available resources, including CDC's Children's BMI Tool for Schools, to help implement these kinds of activities in the safest and most effective way possible. This information is available on the CDC's Web site at: *http://www.cdc.gov/healthyyouth/obesity/bmi/.*

Changes: None.

Comment: One commenter questioned why parental permission would be necessary to collect BMI data since overall fitness testing or other assessments do not require parental permission.

Discussion: The competitive preference priority requires that parents be given the opportunity to have their child opt out of the BMI assessment after they have been informed of this choice. Applicants who wish to address the competitive preference priority related to BMI assessment are required to sign a Program-Specific Assurance that they will include parents in the development and implementation of their protocols to collect and report BMI data.

The final priorities, requirements, and definitions also reference the Federal Policy for the Protection of Human Subjects. Grantees that engage in BMI data collection could be subject to the U.S. Department of Education's Protection of Human Subjects regulations found in 34 CFR part 97 if the data are used in research funded by the Federal Government or for any future research conducted by an institution that has adopted the Federal policy for all research of that institution.

Grantees will need to review carefully the scope and design of their project to determine if parental permission for collecting and reporting BMI data is required by State or local laws, regulations, or policies, if applicable. We will provide technical assistance to grantees to help them make this determination.

Changes: None.

Comment: One commenter believed that by requiring the collection of BMI data, grantees would be compelled to purchase a commercial fitness assessment product.

Discussion: The use of a commercial product is not necessary to collect BMI data. Grantees can effectively collect BMI data without a specific fitness assessment product. In fact, many districts are conducting population-based BMI assessments with fairly simple equipment and spending more time and resources developing protocols and engaging in professional development to ensure that the assessment is done accurately and with sensitivity to students.

Grantees should design a program that is commensurate with their identified needs and propose a budget that is commensurate with that project design. Because BMI assessment is a competitive preference priority, applicants can opt not to undertake that collection. If, however, an applicant commits to undertaking BMI assessment, the applicant should determine the most appropriate methods and tools for undertaking this activity. While the grant does allow for costs associated with needed equipment, technical assistance, and resource products, the Department does not require, recommend, or endorse the purchase or use of any particular commercial product for meeting this priority.

Changes: None.

Comment: Some commenters requested that we change the competitive preference priority to an invitational priority.

Discussion: We believe the collection of BMI data has value in helping programs identify the percentage of students who might be obese, overweight, normal weight, and underweight, thus allowing them to better understand the needs of the population they serve. As such, we have opted to give competitive preference to applicants that choose to undertake this activity.

Changes: None.

Competitive Preference Priority 2—Partnerships Between Applicants and Supporting Community Entities

Comment: Several commenters expressed a concern about the requirement to include the "head of local government," as a required partner in order to satisfy the proposed competitive preference priority concerning partnerships. Specifically, commenters doubted that the head of local government would have time to play a meaningful role in a PEP project and were also concerned about the difficulty of securing support from the head of local government, particularly in large urban areas. One commenter expressed concern that requiring involvement of the head of local government would inject a political element into the grant.

Discussion: Although we believe that the head of local government can

provide a significant leadership role in community-wide efforts to improve physical education, increase levels of physical activity, and enhance knowledge about nutrition and healthy eating, we understand that in some communities it may be difficult or even impossible to secure support of the head of local government. We address this concern by providing a broader definition of the term "head of local government" in the final definitions.

Changes: We have revised the definition of "head of local government" as follows: "the head of, or an appropriate designee of, the party responsible for the civic functioning of the county, city, town, or municipality would be considered the head of local government."

Comment: Some commenters expressed concern that the competitive preference priority for partnerships is far-reaching and detracts from PEP's basic purpose of helping students meet State standards for physical education. Commenters also expressed concern about the burden associated with creating and maintaining the kinds of partnerships envisioned in the competitive preference priority, and stated that work on partnerships would dilute efforts to improve the quality of physical education programs. In some instances, commenters stated that it might also be difficult for community based organizations (CBOs) to establish such partnerships and that the inability to do so might place them at a competitive disadvantage.

Discussion: We believe that collaborative efforts between school and community entities will greatly enhance the ability of grantees to provide effective and comprehensive PEP programs that help students live and learn lifelong healthy habits. We believe that both schools and CBOs can contribute to partnerships that are designed specifically to meet the needs of their student population. Best practices in the field suggest that this type of community collaboration enhances the project's effectiveness and possibility for being sustained past the period of Federal assistance. Although all applicants who choose to address this competitive preference priority would be required to engage in additional work to create and maintain partnerships, we believe that the important outcomes that could be gained by doing the work outweigh the concerns about the potential burden imposed.

We have designed a competitive preference priority to allow CBOs to identify community partners that would enhance their efforts and connect their programs to other community initiatives. Although the makeup of the partner groups will differ between LEAs and CBOs, we do not believe that there is a significant difference between the priority requirements for LEAs or CBOs or that the priority places CBOs at a competitive disadvantage because both LEAs and CBOs are equally able to create and maintain the partnerships required.

Changes: None.

Comment: One commenter stated that partners provide significant help in implementing and sustaining programs and policies and suggested that we incorporate competitive preference priority 2 into the absolute priority for the program.

Discussion: We agree that a coordinated, community-wide approach is likely to be the most powerful model for establishing and sustaining comprehensive efforts to provide physical education, nutrition education, and other activities and programs.

However, we are concerned that some potential applicants for PEP might not be able to secure each of the required partners. We believe that inclusion of the competitive preference priority strikes an appropriate balance between encouraging the use of this approach and not creating a disadvantage for applicants that cannot secure each of the required partners.

Changes: None.

Comment: One commenter suggested that applicants be permitted to use the State public health entity rather than the local public health entity to satisfy the competitive preference priority concerning partnerships because responsibility for some issues related to PEP might rest with State officials.

Discussion: The proposed definition of the term "local public health entity" included in the NPP provided an exception for applicants from Rhode Island and Hawaii because neither State has sub-State public health units. While we believe that a local public health entity is likely to be more involved in implementing a PEP project, we have learned that some States that have local public health units may not assign responsibility for issues related to nutrition, physical education, or physical activity to those local units. Based on this new information, we have revised the definition of the term "local public health entity" to address this situation.

Changes: We have revised the definition of the term "local public health entity" to permit applicants whose local public health entity does not have responsibility for issues related to physical education, nutrition, or physical activity to partner with the State public health entity instead.

Comment: One commenter suggested that we revise the language concerning partner contributions in item (2) of the competitive preference priority by removing the word "if". Because partners are signing the partnership agreement, the commenter stated that it is reasonable to assume that they will be contributing to the partnership in some way and that those contributions should be specified in the agreement.

Discussion: We agree with the commenter's suggestion and have revised the priority.

Changes: We have revised item (2) in the competitive preference priority accordingly.

Comment: One commenter expressed concern that the time typically allowed to complete the application would not be sufficient to create a partnership as described in the competitive priority concerning partnerships.

Discussion: The Department must obligate all FY 2010 PEP funds by September 30, 2010 or those funds will revert to the U.S. Treasury. We are providing as much time as possible for applicants to develop and submit their applications under the FY 2010 PEP grant competition. All applicants will be subject to the same deadline.

Changes: None.

Comment: One commenter suggested that public health entities be allowed to function as the required partner representing an organization supporting nutrition or healthy eating under competitive preference priority 2.

Discussion: If the only entity in the community that can provide a perspective on nutrition to the advisory committee is the public health entity, we believe it would be an acceptable partner to satisfy the competitive priority and, therefore, have revised the priority.

Changes: We have revised the language in the priority and added public health entities to the definition of "organizations supporting nutrition and healthy eating."

Requirement 1—Align Project Goals With Identified Needs Using the School Health Index

Comment: One commenter suggested that the Department promote implementation of Coordinated School Health Programs in conjunction with the use of the School Health Index (SHI) as included in this requirement.

Discussion: We agree that a Coordinated School Health Program model provides a strong framework and context in which physical education, nutrition, and other important health

topics can be addressed by schools. Proposed requirement 4, which concerns linkages with Federal, State, and local initiatives, is designed to encourage applicants to consider how their proposed PEP project could be implemented in ways that maximize coordination with other health-related activities being implemented in schools and communities, including with Coordinated School Health Program initiatives. However, because eligible applicants for PEP include entities that are not schools or school districts, it would not be appropriate to require that all PEP projects implement a Coordinated School Health Program.

We believe that requirement 1, with its focus on SHI only, is an appropriate assessment tool because it can be used without requiring the use of the Coordinated School Health Program framework for programming and policy development.

Changes: None.

Comment: One commenter suggested that the Department use the CDC's SHI as part of a competitive preference priority rather than as part of a program requirement so that applicants would be encouraged to conduct an assessment for each application cycle.

Discussion: We agree that applicants should use the SHI assessment tool to plan their proposed PEP project. For that reason, we drafted this requirement to ensure that each applicant conducts the SHI assessment at the time of application and that funded grantees undertake the SHI at the end of their project period to assess their progress. With this structure, use of the SHI assessment is required, which we view as better than simply encouraging it.

Changes: None.

Comment: Some commenters suggested allowing applicants more flexibility in choosing a needs assessment tool rather than requiring that applicants use CDC's SHI. One commenter stated that any needs assessment should include a review of the legal and policy context in which the project would be implemented, and examine the incentives and enforcement mechanisms that are in place to ensure that students are receiving quality physical education.

Discussion: In part, we included this requirement in the NPP to respond to language in the conference report accompanying the FY 2010 appropriations statute that includes funding for PEP. In addition to Congressional interest in having PEP applicants complete the SHI, we believe that completing the questions concerning physical activity and nutrition required in Modules 1–4 of the SHI assessment tool will assist applicants in designing a project that is closely aligned with their needs and is consistent with best practices in the field.

The SHI is a relatively easy and straightforward tool, designed specifically for a school to assess its current policies and practices based on evidence and best practices. Findings from the SHI are also tied to action plans, which should inform the project design. We do not believe there is another tool that is easy to use, free, publicly accessible, aligned with technical assistance opportunities, and broadly applies scientifically-based principles to program and policy in a national context. Moreover, by requiring LEA applicants to use a single assessment tool, we will be better able to understand how schools change over the course of their project.

As set forth in the text of the requirement, CBO applicants that have not identified a school or LEA partner in their applications are not required to use the SHI. However, they must use an alternative needs assessment tool to assess the nutrition and physical activity environment in the community for the children to be served by the grant. There are no comparable tools for CBOs that embody all of the desirable attributes of the SHI for the community-based setting. We will include, in the application package, guidance to CBO applicants on what CBO applicants might consider if they select an alternative assessment tool to the SHI.

Finally, while not required, we encourage all applicants to assess their policy and legal contexts if they determine it is appropriate and they are able to do so. We believe that the SHI will assess the policy context but because grantees cannot necessarily change the legal context in which they would implement their projects, we do not believe that we should require this type of assessment.

Changes: None.

Comment: A number of commenters offered suggestions about how CDC's SHI assessment should be used in the PEP program. One commenter recommended that the Department revise requirement 1 to make it clear that applicants must complete Modules 1–4 of the SHI, while another commenter recommended that we delete the requirement that applicants complete Module 1 because not all of the questions in that module relate to topics that are likely to be included in a PEP project. Other commenters recommended expanding the requirement to include Module 8 of the SHI (Family and Community Involvement) given the Department's increased focus on creating school-community partnerships, as evidenced by the proposed priorities, requirements, and definitions in the NPP.

Discussion: Applicants are only required to complete the physical activities and nutrition questions in Modules 1–4 of the SHI assessment tool. Applicants are not required to complete any other questions in those or other SHI modules. Applicants may choose to complete other questions (in addition to those physical activity and nutrition questions required) if they believe that doing so would be helpful in designing their proposed PEP projects.

Changes: None.

Requirement 2—Nutrition- and Physical Activity-Related Policies

Comment: Two commenters expressed concern about the ability of an LEA or CBO to change or affect physical activity and nutrition policies in their respective settings. One commenter stated that it will be difficult for CBOs to change or affect policies because the scope of the policies subject to review and revision under this requirement is much broader than the scope of the policies that a CBO can adopt and implement. Another commenter discussed the challenges in writing and implementing specific policies in school districts, and stated that the focus of the requirement should be on reviewing and updating policies rather than developing new policies.

Discussion: Requirement 2, which addresses the nutrition- and physical activity-related policies to be developed, updated, or enhanced by grantees during the PEP grant, does not specify particular policies that must be developed, reviewed, and potentially revised. Rather, applicants must describe their current policy framework and the process they plan to use to review, develop, implement, and monitor policies. The purpose of this requirement is to ensure that PEP grantees carefully consider the role of policy development and implementation in creating comprehensive PEP projects, and that they commit to making policy changes that support improvements in the areas of physical activity and nutrition during the project period of the PEP grant. Policy changes are also likely key to institutionalizing and sustaining progress made during a PEP project.

We believe that examining the policy framework in which projects are implemented will help grantees identify needed policy changes that can remove impediments to, or provide incentives

for, enhanced physical education or improved nutrition outcomes. We do not expect grantees to address policies that are outside their authorized mission or scope.

Changes: None.

Comment: Several comments expressed concern about the relationship between proposed requirements 2 (nutrition-and physical activity-related policies), 3 (linkage with local wellness policies), and 4 (linkages with Federal, State, and local initiatives). One commenter proposed that the Department offer applicants the option of meeting either requirement 2 or 3 stating that both requirements entail the same sort of analysis and action. Another commenter suggested that we combine the three requirements into a single requirement because the foci of the three requirements are related.

Discussion: We acknowledge that requirements 2, 3, and 4 are related, but we elected not to combine them because the three requirements may apply differently depending on the applicant's organization and the context in which it operates. We believe that stating the three requirements separately enables us to address how each requirement applies in different contexts. We believe that this approach will help ensure that applicants understand the requirements and will be able to respond to them appropriately in their applications.

For example, requirement 3 concerns linkages with local wellness policies. LEAs are typically the entities responsible for developing and implementing local wellness polices. For this reason, the requirement, as applied to LEAs, is straightforward. Given that we also expect non-LEA applicants to apply for PEP grants, we have included information in this requirement to address those applicants as well. Under this requirement, CBOs whose PEP applications include a partnership with LEAs must describe in their applications how the project will enhance or support the intent of the local wellness policies of participating LEAs, while CBOs not in partnerships with LEAs do not have to satisfy this requirement.

Although we believe that the best approach to describing these three program requirements is to present them separately, applicants are encouraged to provide in their applications a comprehensive discussion of their policy framework and of linkages with other existing initiatives. Applicants need not repeat information that responds to more than one of the requirements.

Changes: None.

Requirement 3—Linkage With Local Wellness Policies

Comment: Some commenters raised concerns that proposed requirement 3, which concerns the linkage with local wellness policies, will be challenging for CBOs to meet and that time spent by staff in managing activities related to the requirement would reduce an organization's ability to provide direct services to students.

Discussion: As stated in this requirement, if an applicant or one its partners does not participate in the school programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition and WIC Reauthorization Act of 2004, it might not have a local wellness policy and, therefore, might not be required to meet this requirement or to adopt a local wellness policy. However, we encourage all applicants to consider developing a local wellness policy consistent with the policies required by the Richard B. Russell National School Lunch Act and the Child Nutrition and WIC Reauthorization Act of 2004 in conjunction with their PEP projects. If a CBO applicant has an LEA partner, it would be required to address that LEA's local wellness policy.

Changes: None.

Comment: One commenter suggested that the Department revise this requirement concerning linkages to local wellness policies to accommodate any changes that might result from reauthorization of the Child Nutrition Act.

Discussion: In future years before using the priorities, requirements, and definitions established in this NFP, we will carefully review program requirements to determine if legislative action or other changes require the Department to modify the priorities, requirements, or definitions in this NFP under this requirement.

Changes: None.

Requirement 4—Linkages With Federal, State, and Local Initiatives

Comment: Two commenters suggested that we include a reference to the Recovery Act Community Putting Prevention to Work Community Initiative (CPPW) grantees in the application package.

Discussion: We agree that adding such a reference could be helpful to applicants. The link to the CPPW Web page (*http://www.cdc.gov/chronicdisease/recovery/community.htm*), which includes a list of grant recipients and additional information on the initiative, will be provided in the application package. We believe that this program, which includes in its goals a focus on improving physical activity and nutrition habits of residents, has the potential to complement efforts undertaken as part of the PEP program.

Changes: None.

Comment: One commenter expressed concern that having programs align with Coordinated School Health programs or CPPW grants, as required under Requirement 4, would place a significant burden on applicants.

Discussion: We believe that applicants and PEP-funded projects must complement, rather than duplicate, existing, ongoing, or new efforts that promote physical activity and healthy eating, and help students meet their State standards for physical education. CDC's Coordinated School Health Program, USDA's Team Nutrition initiative, and HHS's CPPW grantees are working on projects directly related to one or more elements of PEP. Coordinating with these programs and initiatives will allow PEP grantees to maximize their resources, reduce duplication, provide more effective programming for their students, and increase chances for a PEP project's sustainability.

Changes: None.

Comment: Two commenters requested that we add State associations for health, physical education, recreation, and dance to the list of linkages to Federal, State, and local initiatives that could be made by PEP grantees.

Discussion: This requirement specifically requires applicants that are implementing CDC's Coordinated School Health Program, USDA's Team Nutrition Initiative, or CPPW, to align its proposed PEP project activities with these initiatives. Applicants that are implementing other Federal, State, or local initiatives are required to sign a Program-Specific Assurance that commits them to align their project with such initiatives.

Changes: None.

Comment: One commenter suggested that we add language to proposed requirement 4 that would mandate that USDA's Team Nutrition coordinators be involved in planning and implementing the PEP project and that their involvement be verified by a signed assurance or other documentation.

Discussion: We believe that it is important for PEP projects to complement rather than duplicate existing or new efforts to promote physical activity and healthy eating behaviors. For this reason, requirement 4 requires applicants that receive funding under the USDA's Team Nutrition initiative to describe how

their proposed PEP project supports the efforts of the USDA's Team Nutrition initiative.

Although we agree that it is important for PEP-funded activities to be coordinated with other related activities such as those supported by Team Nutrition, we believe that the proposed requirement is sufficient to address this issue without imposing an additional requirement for a signed assurance from the Team Nutrition coordinator.

Changes: None.

Requirement 5—Updates to Physical Education and Nutrition Instruction Curricula

Comment: One commenter expressed concern that the proposed requirement related to updating physical education and nutrition instruction curricula is not aligned with the absolute priority. The commenter stated that completion of the PECAT and analysis of PECAT results should guide applicants in choosing which of the absolute priority elements related to physical education they should include in their proposed PEP project.

Discussion: We believe that each of the proposed requirements in the NPP (and adopted in this NFP) is closely linked to the components of the absolute priority in this notice and that each requirement supports the adoption of high-quality, evidence-based programming and curricula. As part of a general planning framework for a PEP grant, results from the PECAT and HECAT should be used as part of the needs assessment process that each applicant will undertake to be optimally responsive to the absolute priority or as part of a grantee's analysis of available curricula during the project period. Undertaking the SHI or another needs assessment leads an applicant to select elements of the absolute priority to be included in their proposed project. If one of the needs identified is a curricular need, the PECAT and HECAT are intended to guide applicants or grantees to identify a curriculum that fills that identified need. These tools, therefore, should help applicants or grantees to be responsive to the absolute priority and function as tools to help meet the absolute priority. The PECAT and HECAT can be done as part of the application process or after the grant is awarded, as appropriate.

Changes: None.

Comment: Several commenters expressed concern about requiring the use of the HECAT and PECAT tools. Two commenters stated that use of these tools limits local flexibility and does not allow for alignment with State standards. Others contended that these tools have limited ability to assess cognitive components of physical education or that the tools are limited to secondary level curricula. Finally, one commenter expressed concerns that these tools do not assess implementation of curricula.

Discussion: We believe that the PECAT and HECAT tools provide a low-cost and rapid way to assess existing curricula and identify needed enhancements in those curricula. These tools are designed to provide a complete, consistent, and objective assessment of a site's needs and resources and to provide feedback on curricula to best meet the identified needs. According to CDC, the PECAT and HECAT are appropriate for all grade levels and relate to national physical education and health education standards. Our goal in requiring the use of these tools is to help grantees make the best choices for curricula and, in turn, equipment, before funds are spent unnecessarily on items that do not meet the needs of the site. However, this requirement does not prohibit applicants or grantees from also using additional analysis or needs assessment tools if they so choose.

We agree that the PECAT and HECAT are not designed to assess implementation of the curriculum or cognitive components of PE. For this reason, applicants must undertake the SHI or another comparable needs assessment tool to assess needs, which may include implementation issues. In addition, grantees must undertake the SHI at the end of their project period to assess their progress. The PECAT and HECAT complement the SHI in that the PECAT and HECAT address written curricula and the SHI addresses the implementation of those curricula. The SHI is a self-assessment and planning tool that schools use to assess their student health policies and programs and their school health environments. We also note that, in addition to requiring the use of these assessment and planning tools, we also are establishing performance measures for this program that are designed to help assess the effectiveness of the chosen program, including curricula, on changing student outcomes.

Changes: None.

Comment: One commenter expressed concern about tying PEP-related equipment purchases to the curricular components of the applicant's physical education and nutrition program. The commenter stated that there would not be sufficient opportunity during the grant to create an action plan related to a newly developed or adopted curriculum to help students meet their State standards for physical education.

Discussion: The intent of this requirement is to ensure that grantees align equipment purchases using PEP-related funds to the PEP elements and curricula applicable to their PEP projects, as identified by the PECAT and HECAT. Grantees must tie equipment purchases to any curricula that will be implemented as part of a PEP project. Without this alignment, equipment purchased with PEP funds would not support the effective implementation of physical education or health curricula. For this reason, applicants must undertake the PECAT—either as part of the application process or during the grant's project period—to assess their needs and plan related equipment purchases accordingly. We do not intend to prohibit a grantee from changing its plans for equipment purchases during the project period so long as the grantee aligns the equipment purchases with the PEP elements applicable to their projects (identified in priority 1) and any applicable curricula, within the scope of the funded project.

Changes: None.

Requirement 6—Equipment Purchases

Comment: One commenter suggested that it would be appropriate for applicants to consider both the schools' and the community's physical activity needs when selecting equipment for purchase so that equipment purchased for schools could be used by community members under a shared-use agreement.

Discussion: Grantees under this program may only purchase equipment with PEP-related funds (either Federal funds or funds used to satisfy the program's matching requirement) if the purchase is aligned with the curricular components of the physical education and nutrition program. We expect that applicants will describe in their application what equipment they expect to purchase with PEP funds, and how the equipment would address their curricular needs, including gaps and weaknesses in their current programming for the students served by the grant, and the specific curricular needs of the students to be served by the grant. However, it is important to note that during the project period, the equipment may be used only by students served by the grant in grades K–12. Therefore, community members may not use the equipment during the project period.

Changes: None.

Comment: None.

Discussion: Upon further review, we determined that it was appropriate to clarify the first sentence in requirement

6. Specifically, we did not think the phrase "purchases of equipment with PEP funds and related to grant activities" was sufficiently clear for applicants.

Changes: We revised the first sentence of requirement 6 to state that purchases of equipment with PEP funds or with funds used to meet the program's matching requirement must be aligned with the curricular components of the proposed physical education and nutrition program.

Requirement 7—Increasing Transparency and Accountability

Comment: One commenter suggested that we require reports generated by a particular commercial fitness product to be sent home to parents so that this additional information can be used by parents and pediatricians to monitor growth and development.

Discussion: The Department does not endorse specific commercial products. There are many mechanisms and reports that can provide information to parents and, if they so choose, parents may share this information with their child's pediatricians. We encourage applicants to consider plans to share student-level information with parents.

Changes: None.

Comment: One commenter requested clarification on whether reporting mechanisms required for grantees to increase transparency and accountability include making available to the public reports of students' progress towards meeting State physical education standards.

Discussion: The new PEP design seeks to increase accountability and transparency by requiring grantees to report aggregate student data to the public on program indicators required under GPRA, as published in the performance measurement section of the notice inviting applications (NIA), published elsewhere in this issue of the **Federal Register,** and any unique project-level measures proposed in their applications. Grantees may elect to establish measures specific to their project, which may include student's progress towards meeting State standards for physical education. Because of the diversity not only in grantee sites, but also the quality of State physical education standards, it is not practical for us to require grantees to report on this issue as a performance measure for PEP. We have chosen performance measures that best balance the potential data collection burden, which we believe is low, with the value of providing grantees with practical and actionable student-level data and obtaining comparable data that can be aggregated across program sites, which we believe is high.

Changes: None.

Comment: None.

Discussion: Upon further review of this requirement, we determined that the language in the final paragraph regarding the Program-Specific Assurance might be confusing. Specifically, we determined that the phrase "including parents of students under 18 years old" was not necessary, might cause readers to be confused as to what was required, and did not meaningfully add to the intent of the requirement.

Changes: We revised the first sentence in the last paragraph of requirement 7 to clarify that applicants must commit to reporting information to the public by signing a Program-Specific Assurance, and deleting the phrase "including parents of students under 18 years old."

Requirement 8—Participation in a National Evaluation

Comment: One commenter expressed concern about how much time would be needed to collect data related to the national evaluation and PEP's performance measures.

Discussion: Although we understand that the required performance measures and data collection methodology may be challenging for some grantees, they are similar to the measures and data collection methodology that many grantees currently collect and implement. Grantees are, and have always been, allowed to hire staff to assist in the collection and analysis of their site-specific data related to performance measurement. For the national evaluation, the Department will work directly with a contractor, who will use existing data, to the extent possible and minimize the data collection burden on grantees.

Changes: None.

Comment: One commenter requested information about the national evaluation of the PEP program.

Discussion: The scope of the national evaluation is still being considered. If a grantee is selected to participate in the national evaluation, more specific information about the study will be shared prior to the initiation of the evaluation. We expect that the evaluation will broadly examine the performance measures, which focus on increases in the percentage of students meeting the recommended levels of physical activity (at least 60 minutes every day), and improvements in student fitness levels and nutritional intake. These measures will likely be examined at the PEP program level to illustrate the range of projects implemented and outcomes achieved by grantees funded under this program.

Changes: None.

Requirement 9—Required Performance Measures and Data Collection Methodology

Additional or Alternative Measures

Comment: One commenter suggested requiring applicants to gather data on the four CDC physical activity recommendations in addition to the GPRA measures already listed in requirement 9. These CDC measures include assessments of the type and intensity of physical activity in which students engage, such as whether or not a student has engaged in moderate to vigorous physical activity, bone strengthening and muscle strengthening for at least three days; as well as the student's consumption of sugar-sweetened beverages; hours of sleep; and "screen time."

Discussion: Although we agree that these CDC measures can be useful for understanding a student's nutrition and physical activity habits, we have found that grantees are best able to focus fully on a smaller set of measures that most closely align with the desired goals and objectives of their program. We expect that the three performance measures that we have selected will serve as a proxy for the full range of these CDC measures, as well as for longer-term outcomes, and will provide the Department with the most useful assessment of whether a program is making substantial progress from year to year. With that said, we encourage grantees to adopt these CDC measures or other site-specific measures to assess their performance during their project period.

Changes: None.

Comment: Several commenters suggested expanding the required performance measures to include components, such as a standard metric that would assess the number of physical activity minutes offered to students during a school year, by school and by program, as well as the actual number of minutes that a student is engaged in physical activity, which would be assessed by using direct observation or pedometry. Another commenter suggested assessing the program's effectiveness in improving children's ability to pursue different physical activities, and the extent to which students embrace a healthy lifestyle. Still another commenter recommended that we require grantees to collect and report data on performance measures that are aligned with the six PEP program elements

outlined in the absolute priority and State standards for physical education.

Discussion: Under requirement 7 (Increasing Transparency and Accountability), applicants may propose a variety of unique project-level performance measures for their individual programs that would best help them understand their program's progress towards their unique goals and objectives and assess their students' performance. However, we are requiring three performance measures that are aligned with the desired program outcomes. Although we agree that one metric would be optimal for cross-site comparability, PEP grantees represent a diverse array of programs that would make a single specific metric difficult, if not impossible, to implement. For example, some programs operate only after school or in the summer, and others are school-based physical education programs. Because of this diverse array of programs, many grantees will not have the ability to increase the minutes of physical activity offered to students. Also, grantees are not required to undertake all six of the PEP program elements, and, as such, we cannot hold all grantees accountable for elements that they will not address as part of their funded project.

We are also interested in measuring changes in students' physical activity habits throughout the day and in multiple settings, not just in the activities funded under the PEP program. We believe that measuring changes to students' overall activity level will not only measure improvements in programming, but also changes in students' behavior. As such, we prefer to assess student-level outcomes, such as the minutes spent in physical activity, fitness levels, and improvements in nutritional intake. These outcome measures are also the logical outcomes of the adoption of healthier lifestyles, as we hope that there will be increases in the percentage of students who practice healthy habits. We also believe these outcomes will serve as a proxy for a teacher's effectiveness in imparting lessons that students understand and, in turn, apply to their daily lives, and are reflected in healthier activity and nutritional choices.

Changes: None.

Comment: Due to a concern about program quality and the need to ensure that programs are comprehensive and not just focused on equipment purchases for physical activity, one commenter suggested that grantees be required to demonstrate their progress during the period of the grant using at least one indicator of change, such as the development of a school- or district-level curriculum, or changes as assessed by the PECAT and HECAT, or SHI.

Discussion: We agree with the commenter that projects should be comprehensive in nature, improve physical education, and enhance physical activity opportunities for youth, as well as help students develop lifelong healthy habits, rather than just support equipment purchases. All grantees will be required to use the PECAT if they are developing or purchasing a new curriculum for physical education or the HECAT if they are developing or adopting a new curriculum for nutrition education. All applicants will also be required to undertake the SHI or a comparable local needs assessment, submit their scores as part of their application, and create a program designed to address their greatest needs in programming and policy. Although the SHI is designed to help schools assess their policy and practice environments, it is not designed as an evaluation tool and may not be used for this purpose. Grantees will be required to undertake the SHI at the end of their project to determine if they have made the changes that they had desired (and to assess any unplanned consequences). The SHI should be used only as a program management tool—not to assess accountability—because a grantee's progress, as measured by the SHI, may or may not reflect the results of the grantee's project. Similarly, the PECAT and HECAT are tools designed to help schools and CBOs assess curricula and choose improvement areas based on their needs, rather than as tools to evaluate a project's progress. Not all grantees will need to develop or adopt new curricula; for example, some grantees may have recently adopted a new curriculum while others may be part of a larger organization that has control over the curriculum used.

We encourage grantees to track their progress towards implementing changes identified through these tools, or the adoption of any curriculum; grantees are welcome to include these process measures as part of their own performance goals and objectives. We believe that the required performance measures will appropriately assess the desired student-level outcomes related to changing curriculum, practice, and policy.

Changes: None.

Comment: Two commenters suggested that the Department add two new measures to this requirement. These new measures would assess students' progress towards meeting State standards on competency and proficiency in motor skills and movement forms and physical activity-related knowledge, as measured by the National Association of Sport and Physical Education's (NASPE) assessment tools. The commenter noted that NASPE's elementary school assessment tools are currently complete and tools for secondary schools will be complete in fall, 2010.

Discussion: We agree that it is important to assess students' progress towards meeting State standards on competency and proficiency in motor skills and movement forms and physical activity-related knowledge. Grantees may adopt metrics that assess students' competency and proficiency in motor skills and movement forms and students' physical activity related knowledge, but we do not believe it is appropriate to require them to do so. We continue to believe that the measures proposed in requirement 9 will appropriately assess the student-level outcomes that we seek to change through PEP, as they are designed to measure changes in student's knowledge, skills, and abilities related to physical activity and movement, as well as changes in their adoption of lifelong healthy habits.

Changes: None.

Comment: One commenter expressed concern about the validity of the 3-day physical activity recall (3DPAR) for middle school students required in measure 1, and proposed piloting a 1-day measure with a small group of grantees to determine feasibility, reliability, and validity.

Discussion: The 3DPAR is a validated self-report instrument designed to capture habitual physical activity of adolescents. The instrument can be completed during a single 30 minute session, making it ideal for school-based data collection. Particularly when combined with pedometer data, the 3DPAR provides a reasonably good estimate of the type and intensity of students' physical activity. It is important to gather three days of physical activity data through self-report to help identify not only the amount, but also the type, of physical activity. The 3DPAR is not meant to be used on three separate occasions; rather, students are asked to report their physical activity one time and to report about their physical activity from the past three days. The use of the 3DPAR in combination with the pedometer is designed to capture small changes in behavior because the pedometer measures activity continuously and we can determine time and intensity through pedometers.

We require that students in grades 5–12 complete the 3DPAR because it has been used successfully with middle school and high school students. Several recent studies have used the 3DPAR with this population, combined with an objective measure of physical activity such as data gathered via pedometer use.[2 3]

With grantees using a uniform data collection and assessment methodology, we will be able to aggregate data to provide information that informs our national evaluation.

Changes: None.

Comment: One commenter stated that the 3DPAR methodology is too cumbersome to implement and recommended that the Department require the use of a pen and paper or computer-based seven-day recall survey instrument based on the Youth Risk Behavior Surveillance System (YRBSS) survey.

Discussion: Although a seven-day physical activity recall instrument is an option for grantees, we believe that the resources involved in implementing and completing a seven-day survey outweigh the relative benefits. Additionally, a seven-day recall instrument would not be appropriate for younger children, who have a harder time recalling the seven prior days. The YRBSS survey instrument has historically been used with high-school students and, although some States collect YRBS data from middle school students, we are uncertain about the validity and reliability of YRBS data collected at grade levels lower than middle school.

We recognize that some applicants and grantees will not have experience in implementing the 3DPAR. We intend to provide grantees with technical assistance to ensure relatively uniform data collection and to help students and staff understand what type of physical activity to include in the data collection.

Changes: None.

Comment: Several commenters expressed concern about the validity of the pedometer data required to be collected under measure 1. The first concern was about accurately reporting data because the data would be self-reported and could be reported inaccurately either inadvertently or deliberately by the teacher or the student. The second concern focused on the collection of pedometer data, which the commenter stated could be inflated by, for example, the student shaking the pedometer.

Discussion: The use of pedometers to assess students' physical activity during the day is well-validated and recommended by many physical activity researchers. Multiple studies conducted over the last decade have examined noncompliance, and the overwhelming finding is that the use of pedometers does not present data collection or aggregation challenges that compromise the validity and reliability of student-level self-reported data. A nationally-representative study of over 11,000 Canadian students used pedometers as its data collection methodology and did not find data collection methodology challenges with pedometers. This population-based study and other studies relied on self-report data and found this method to be acceptable and to produce valid and reliable data.

We will provide technical assistance to grantees to help them introduce pedometers during physical education lessons, including explaining how pedometers work, allowing students to explore moving with pedometers, teaching students how pedometers should be worn and taken care of, and how to record the data from the pedometers. Physical education teachers' prompts and reminders to students about wearing the pedometers during the data collection period are also important in helping students accurately collect their activity data.

Although self-reported data may be a challenge because of the potential for students to report socially desirable responses, self-report is still the most widely used method for assessing physical activity among all age groups. Combining the use of pedometers with a 3DPAR provides researchers, physical education teachers, and program coordinators with a good idea of young people's physical activity levels from a subjective (self-report 3DPAR) and objective (pedometer) method. This combination of strategies provides information regarding how much activity (through both pedometers and 3DPAR), as well as what types of activity (3DPAR) students are engaged in.

Changes: None.

Comment: Two commenters suggested that we allow grantees to collect data from a sample of students rather than collect pedometer data from all participants.

Discussion: Depending on the size of the project and the number of students served, grantees may use a sampling methodology and framework instead of assessing their whole target population. We have developed a sampling methodology that will be shared with grantees and, if the grantee decides to use sampling, we will provide technical assistance in setting up the sample and ensuring that the methodology is implemented correctly.

Changes: None.

Comment: A few commenters expressed concern that pedometers are not able to appropriately and adequately reflect physical activity for specific populations, such as young children, or specific activities, such as riding a recumbent bike, and requested information on "approved" pedometers to be used in these instances.

Discussion: Pedometers have been shown to be a cost-effective, noninvasive, valid, and reliable method of collecting information on students' activity levels while engaging in a variety of activities. Research shows that pedometers are reliable and valid for use with children, even children as young as kindergarten age and for adolescents because they measure the physical activity of youth in steps accurately on a consistent basis. Researchers in Canada implemented a nationwide study using pedometers with 5–19-year-olds, and were able to obtain reliable data from this age group.[4]

Additionally, for all ages, it is possible to use pedometers to determine moderate to vigorous physical activity. For example, one study showed that approximately 120 steps per minute equates to moderate activity.[5 6] Another study showed that the number of steps taken per day was a significant predictor of activity time.[7]

There are many different kinds of pedometers made by a variety of manufacturers and, to the extent practicable, we will provide guidance in the application package on

[2] Ward DS, Dowda M, Trost SG, Felton GM, Dishman RK, and Pate RR. Physical activity correlates in adolescent girls who differ by weight status. *Obesity.* Jan 2006;14(1):97–105

[3] Dowda M, Pate RR, Felton GM, Saunders R,et al. Physical activities and sedentary pursuits in African American and Caucasian girls. *Res Q Exerc Sport.* Dec 2004;75(4):352–360.

[4] Craig, C.L., Cameron, C., Griffiths, J.M. and C. Tudor-Locke. Descriptive epidemiology of youth pedometer-determined physical activity: CANPLAY. *Medicine & Science in Sports & Exercise.* 2010; in press.

[5] "Moderate physical activity" is defined as a level of exercise that makes one sweat and breathe hard. During moderate activity, one can talk but not sing, and includes activities such as walking briskly, ballroom dancing, doubles tennis, or gardening. "Vigorous physical activity," is defined as a level of activity during which one can only talk with a pause between words, and includes activities such as singles tennis, jumping rope, or speed walking, jogging, or running.

[6] Graser, S.V., R.P. Pangrazi, and W.J. Vincent. Steps it up: Activity intensity using pedometers. *Journal of Physical Education, Recreation, and Dance.* 2009; 80(1): 22–24.

[7] Beighle and Pangrazi. Measuring Children's Activity Levels: The Association between Step-Counts and Activity Time. *Journal of Physical Activity and Health.* 2006; 1: 221–229.

specifications that may enhance the validity and reliability of pedometers for this population and provide an accurate overall depiction of physical activity across a student's day.[8 9 10 11 12 13 14]

Changes: None.

Comment: Some commenters expressed concern about the burden associated with collecting, reporting, and analyzing pedometer data; commenters stated that additional staff would be needed to facilitate the collection of these data. Two commenters suggested that some of the proposed GPRA measures for the program would be better collected by the national evaluator to mitigate burden to the local grant sites.

Discussion: Under PEP, applicants may propose to hire staff, including a project manager, program coordinator, or evaluator to support, within reason, activities commensurate with the scope of work and activities of the program. This would include efforts related to data collection and analysis. PEP does not allow applicants to propose a staffing plan that would supplant existing staffing requirements, but the program does allow for funding to supplement the existing program to carry out the tasks delineated in the project or evaluation design. We believe that these data are best collected by the grantee because they are able to structure their data collection appropriate to their particular site.

Changes: None.

Comment: We received some comments regarding the potential complexity of collecting pedometer data during out-of-school hours as well as the related burden on parents, students, and grantees that lack an appropriate project management structure.

Discussion: We acknowledge that the responsibility of collecting pedometer data during out-of-school hours will result in some additional burden on students and their families. We carefully considered issues of burden in developing the requirements for the program, and believe that the value of obtaining comprehensive information about changes in levels of student physical activity served by PEP grants outweighs the relatively limited burden on students and families.

Moreover, grantees can implement strategies to limit this burden for parents and students. For example, grantees could provide orientation sessions to both students and parents to introduce pedometer use to them and provide instruction on using the pedometer, how a pedometer should be worn and taken care of, as well as on how students should record the data from the pedometers. We will provide additional technical assistance to grantees on these and other strategies to enhance the validity and reliability of the data collected.

Finally, under PEP, grantees may propose to hire a project manager or program coordinator, as well as evaluation support, within reason and commensurate with their project's scope of work. PEP does not allow grantees to supplant existing staff requirements, but will allow funding to supplement an existing program to carry out new tasks delineated in the project, including the project evaluation.

Changes: None.

Comment: We received several comments concerning the durability of pedometers. These commenters expressed concern that requiring the use of pedometers would result in grantees wasting funds by purchasing replacement pedometers when they are lost, stolen, or broken.

Discussion: Like other types of equipment, pedometers can be lost, stolen, or broken. However, there are straps that are available to connect the pedometer to a belt loop or waistband to minimize loss. Student training in correct pedometer use and care before data collection begins may also help to minimize breakage. As an objective measure of physical activity, the pedometer is one of the most moderately priced options and one that requires minimal training to use. Pedometer use is also much less time and labor intensive than other objective measures of physical activity.

Changes: None.

Comment: We received several comments recommending that other tools be used instead of, or in addition to, pedometers to measure activity levels. Suggestions included using downloadable heart rate monitors, accelerometers, or a type of watch to appropriately measure physical activity levels. These commenters stated that such tools would be more accurate and effective than pedometers for recording and evaluating information about physical activity.

Discussion: Applicants are welcome to propose using other measurement tools in addition to pedometers. We have elected to use pedometers to measure physical activity under performance measure 1 because they are an accurate, feasible, and unobtrusive measure of physical activity, particularly in physical education. They can be put on quickly, and measure many types of activity, including walking, jogging, running, tennis, dancing, aerobics, and roller skating. Pedometers record physical activity of all intensities, and provide immediate concrete feedback to students. Some pedometers also measure the number of steps and activity time; this then allows the calculation of steps per minute, which can then be associated with intensity.[15]

Research also shows that pedometers can be used in large population-based assessments of physical activity, which implies that they are practical in a range of settings with different populations. Pedometers also tend to be more affordable and require little or no additional investments in complementary pieces of technology such as computers or handheld devices to upload the data.

Changes: None.

Comment: Several commenters shared a concern about the use of the 20-meter shuttle run as a performance measure. Specifically, some commenters expressed concern that grantees would be required to purchase a particular commercial fitness-assessment package to meet the requirement. Other commenters sought clarification about whether we intend for the 20-meter shuttle run to be implemented as a criterion- or norm-referenced test.

Discussion: The 20-meter shuttle run is a test that has been widely used in schools across the U.S. as part of physical education classes. It is not necessary for grantees to purchase a commercial package to collect and report data on this performance measure. The shuttle run provides a measure of students' cardio-respiratory fitness, due to its predictive validity and

[8] Eston, RG, Rowlands, AV, Ingledew, DK. Validity of heart rate, pedometry, and accelerometry for predicting the energy cost of children's activities. *J Appl Physiol.* 1998;84(1):362–371.

[9] Kilanowski, CK, Consalvi, AR, Epstein, LH. Validation of an electronic pedometer for measurement of physical activity in children. *Pediatr Exerc Sci.* 1999;11:63–68.

[10] Louie, L., Eston, R.G., Rowlands, A.V., Tong, K.K., Ingledew, D.K., & Fu, F.H. (1999). Validity of heart rate, pedometry, and accelerometry for estimating the energy cost of activity in Hong Kong Chinese boys. *Pediatr Exerc Sci.* 11, 229–239.

[11] Rowlands, AV, Eston, RG, Ingledew, DK. Measurement of physical activity in children with particular reference to the use of heart rate and pedometry. *Sports Med.* 1997;24(4):258–272.

[12] Beets, M, Patton, MM, Edwards, S. The accuracy of pedometer steps and time during walking in children. *Med Sci Sport Exer.* 2005;37(3):513–520.

[13] Schneider, PL, Crouter, SE, Lukajic, O, Bassett, DR. Accuracy and reliability of 10 pedometers for measuring steps over 400-m walk. *Med Sci Sport Exer.* 2003;35:1779–1784.

[14] Basset, DR, et al. Accuracy of five electronic pedometers for measuring distance walked. *Med Sci Sport Exer.* 1996, 28(8) 1071–1077.

[15] Graser, S.V., R.P. Pangrazi, and W.J. Vincent, Step it up: Activity intensity using pedometers. *Journal of Physical Education, Recreation, and Dance,* 2009. 80(1): 22–24.

correlation with maximal oxygen uptake, which indicates one's cardiovascular or aerobic capacity. The test measures aerobic capacity by having the student run back and forth over 20-meters at increasing rates of speed over specific periods of time.

We intend for grantees to implement the 20-meter shuttle run as a criterion-referenced test, rather than as a norm-referenced test, such as the 20-meter shuttle run test that is used as part of the President's Fitness Challenge. While grantees are not required to purchase any commercial package to meet this requirement, grantees may choose to use the 20-meter shuttle run test from a commercial package to satisfy the 20-meter shuttle run test requirement.

Changes: None.

Comment: Two commenters recommended that the Department permit, rather than require, grantees to use the 20-meter shuttle run for purposes of performance measure 2. One commenter recommended that the Department allow grantees to use the 1-mile walk/run as an alternative assessment to the 20-meter shuttle run.

Discussion: Research demonstrates that the 20-meter shuttle run is a better measure of cardio-respiratory fitness thanthe 1 mile walk/run.

Changes: None.

Comment: One commenter expressed concern as to the size and safety of some school's facilities for conducting the 20-meter shuttle run assessment.

Discussion: We recognize that many LEAs and CBOs face challenges in maintaining adequate facilities to implement physical education activities, but the space requirements necessary to implement the 20-meter shuttle run in a safe manner are minimal (*e.g.,* a volleyball court is approximately 20 meters in length). If the area is not wide enough for all students to complete the run simultaneously, the test can be completed in shifts, with half the class running at a time. This is not ideal, but it is an acceptable alternative if space is limited. Also, the shuttle run can be conducted outdoors if needed.

Changes: None.

Comment: One commenter suggested adding descriptive and clarifying language related to the second GPRA measure, including describing the shuttle run as a criterion-referenced health-related fitness testing protocol and identifying the measure as an assessment of student health-related fitness levels.

Discussion: We agree with the commenter. The 20-meter shuttle run is a criterion-referenced health-related fitness testing protocol used to assess student health-related fitness levels. Therefore, we have changed the language in the requirement accordingly.

Changes: We have changed the language in the requirement to refer to the criterion-referenced health-related fitness testing protocol when describing the shuttle run and referring to the GPRA measure as an assessment of student health-related fitness levels.

Consumption of Fruits and Vegetables

Comment: Some commenters objected to the proposed performance measure concerning daily consumption of fruits and vegetables, based on their opposition to the requirement contained in the absolute priority that nutrition education be required as part of each PEP-funded program. One commenter stated that fruit and vegetable consumption is not an outcome of effective physical education.

Discussion: After a careful review of comments received about the proposed absolute priority, we have elected to retain the requirement that projects include a component addressing healthy eating habits and good nutrition because we believe that a PEP project that incorporates both high-quality physical education and nutrition instruction strategies offers the best opportunity for students to acquire the information and skills necessary to help them understand the complementary relationship between physical education and nutrition, and the role that both can play in improving their health. We believe that the measure related to daily consumption of fruits and vegetables is an important measure that will provide data about project effectiveness.

Changes: None.

Comment: Several commenters recommended methods for collecting information on elementary and middle school students' nutritional intake. Suggestions included using a new nutrition survey, adapting nutrition-related questions from the YRBS, and administering a seven-day nutrition recall assessment, the Healthy Eating Index, or the USDA's MyPyramid nutrition tools. Two commenters suggested that the performance measures be revised to give grantees flexibility to select, depending on their local needs, the method to collect this information (such as through the use of site-, region-, or State-specific instruments).

Discussion: We appreciate the variety of recommendations provided by these commenters and carefully considered all the different tools suggested. We are not aware of any available tools that are free and publicly accessible, that would provide valid and reliable data for elementary and middle school students, and that are not associated with commercial products or curriculum, which the Department is prohibited from endorsing. Because we are unable to identify an appropriate data collection tool, we are not requiring a specific measurement tool for programs serving students in elementary or middle school. Instead, we will provide guidance to applicants on factors they should consider in selecting an appropriate assessment tool to collect data on the percentage of elementary and middle school students who consumed fruit two or more times per day and vegetables three or more times per day.

Changes: We have revised this requirement to clarify that we will not require programs serving elementary and middle school students to use a specific measurement tool, and that they may select an appropriate assessment tool for their population.

General Issues Related to Performance Measures

Comment: One commenter encouraged us to consider requiring all grantees to aggregate the data they collect on the required performance measures at the school level, as opposed to the district level, to increase and enhance accountability for school teachers and school personnel.

Discussion: All participating schools or other grant sites will be responsible for collecting data on the students served and aggregating those data. Grantees must provide to the Department (as part of their required annual and final reports) data that are aggregated across all students served in the grant. To minimize burden, we do not require that grantees provide data to the Department for required performance measures at the school building or classroom levels. While not required, grantees are welcome to use data collected at the school building and classroom levels to assess project progress.

Changes: None.

Comment: Two commenters questioned the need for counting out-of-school physical activity, stating that there has been little evidence of the relationship between school-based programs and a student's out-of-school physical activity.

Discussion: Because of the diversity of PEP programs, not all programs will be school-based or implemented during school hours. Some programs will occur during the after-school hours, on the weekend, or during the summer. Other programs may be primarily school-based

or combine in-school programming with programs and initiatives during out-of-school hours, sometimes in partnership with community groups. Our intent is to fund programs that begin to create systemic changes in students' environments, as well as changes in students' overall habits and behavior throughout the day.

Changes: None.

Comment: Several commenters stated that the requirement to collect data four times during the project period in addition to baseline data would be challenging and cumbersome. Some commenters stated that it would be difficult for grantees to begin data collection at the start of the grant period when initial implementation and professional development would be occurring.

Discussion: Although we recognize that taking time from service delivery to collect data may pose challenges for some grantees, we have used this data collection strategy and methodology for several years with several cohorts of PEP grantees. Generally, we have found that grantees have not been challenged by multiple data collections or the additional baseline data collection during the first year of the grant before program implementation begins. This data collection methodology allows us to standardize the way that data are collected and ensure that grantees are collecting enough data to evaluate program quality and student progress. The frequency of the data collection reduces potential confounds related to changes in student population or expected seasonal differences. The collection of baseline data before and follow-up data after the project is implemented provides data for grantees to assess the effectiveness of their individual PEP projects. If grantees are unable to collect baseline data at the time of their application, they may do so before large-scale implementation of their projects at the beginning of the project period.

Changes: None.

General Comments

Comment: Some commenters recommended that some of the terms used in the NPP be defined. Commenters suggested defining the terms "physical education," "quality physical education," "physical activity," and "physical fitness" to improve clarity.

Discussion: We agree that providing more information about these terms as they are used in the context of the PEP competition could be helpful to applicants. We will include this information in the application package for the program.

Changes: None.

Comment: One commenter expressed concern that some school districts do not have the expertise to prepare an application for a PEP grant based on the requirements proposed in the NPP, and suggested that LEAs be allowed to join together to prepare and submit an application for a PEP grant.

Discussion: Under the Department's existing general administrative regulations (34 CFR 75.127), applicants eligible to receive a PEP grant (LEAs or CBOs) may elect to submit an application on behalf of a consortium. All members of a consortium applying for a PEP grant must be either LEAs or CBOs. One eligible entity within the consortium must submit the application on behalf of the consortium and serve as the program's administrative and fiscal agent. We encourage applicants applying as a consortium to establish a partnership agreement or a memorandum of understanding to delineate roles, responsibilities, and expectations.

Changes: None.

Comment: One commenter expressed concern that the proposed priorities and requirements for PEP will entail outside-the-classroom responsibilities for physical education teachers and that these responsibilities might, in turn, reduce the effectiveness of those teachers in the classroom.

Discussion: We understand that physical education teachers already have significant responsibilities, and that activities related to implementing a PEP project are likely to increase those responsibilities. However, we do not expect that physical education teachers will be responsible for all aspects of implementing a funded PEP project. Applicants are free to request funding for project personnel, consistent with the scope of their proposed projects.

Changes: None.

Comment: Two commenters recommended increasing the focus on "shared-use" or "joint-use" agreements so as to enhance and encourage the use of school and community recreation facilities and community linkages.

Discussion: We generally agree that shared-use or joint-use agreements have the potential to expand options for increasing the opportunities for physical activity in a community. However, we believe that requirement 2, which requires a review of the broad policy context in which projects will operate, is preferable to imposing a requirement for all applicants to enact a particular policy, such as shared-use or joint-use agreements.

Additionally, we note that PEP funds must be used to provide services to students from kindergarten through the twelfth grade; other individuals are not permitted to use the equipment purchased with PEP grant funds during the grant period.

Changes: None.

Comment: One commenter suggested that we encourage teachers to utilize recreational facilities in the community as a way to increase links between schools and communities and to help students and their families become more aware of opportunities for physical activity in their communities.

Discussion: We agree that collaborative efforts between schools and communities are likely to produce the kind of benefits identified by the commenter. We believe that the competitive preference priority for partnerships will encourage coordinated, collaborative approaches that include strategies such as use of community recreational facilities by teachers and students.

Changes: None.

Comment: Two commenters encouraged the Department to make awards to communities with populations that are at risk for obesity and obesity-related health problems or to sites that experience other significant barriers to promoting physical activity for youth.

Discussion: We agree that the needs of an applicant's target population should be considered in selecting grantees. As indicated in the NIA, published elsewhere in this issue of the **Federal Register,** applications will be judged by peer reviewers against selection criteria that include documentation of the need for the proposed project.

Changes: None.

Comment: One commenter expressed concern that the page limit for a PEP application is insufficient to address all of the required priorities.

Discussion: The NPP did not propose a page limit for applications submitted under the PEP competition. We note that the NIA provides a recommended length for the project narrative section of the application, but applicants are not bound by that recommendation.

Changes: None.

Comment: One commenter suggested the Department award only one-year grants so that more schools might receive funding in a year.

Discussion: At the inception of PEP, we made only one-year grants under the program. Based on our experience in monitoring the implementation of early PEP projects and reviewing final reports for those early grants, we concluded that those projects consisted largely of

purchasing equipment that could be used to assist students in meeting State standards for physical education. Many funded projects lacked a comprehensive approach. Beginning in fiscal year 2004, we expanded the program to permit applicants to propose longer-term projects that are more comprehensive and incorporate strategies such as curriculum development (or revision), modification of policies, and professional development strategies. Many program applicants have incorporated some of these strategies in subsequent years. Based on this experience, we believe that continuing to support multi-year projects will provide the best opportunity for schools and communities to make meaningful and sustainable changes in their physical and nutrition education activities.

Changes: None.

Comment: Several commenters expressed concern about the number of proposed priorities and requirements, and the time commitment that would be required to implement the priorities and requirements, including obtaining needed assurances.

Discussion: We acknowledge that meeting the priorities and requirements will require PEP grantees to invest additional time in implementing their PEP projects. However, we believe that the absolute priority and requirements are necessary to encourage the development of comprehensive PEP projects that provide opportunities for schools and communities to make a significant contribution to improving the health status of the students they serve and to build systems and programs that are sustainable. Applicants are not required to address or implement the activities in the competitive preference priorities.

In the past, PEP projects have too often consisted primarily of large expenditures for equipment without convincing evidence that those project expenditures were coordinated with other related activities in the community, or were based on a careful assessment of gaps and needs. We have balanced the impact on grantees of additional requirements against the potential for creating a cohort of comprehensive and focused PEP projects, and believe that the additional investment of time and effort is justified.

Changes: None.

Comment: One commenter stated that grantees need to be able to use PEP grant funds to support a staff position so that the grant requirements can be met.

Discussion: PEP grantees have always been able to request funding for a project director or project coordinator position, and many grantees have done so. In that regard, applicants should ensure that their budget requests for proposed projects are closely aligned with the activities and strategies in their application, including funding for a project director or project coordinator, if such a position is needed.

Changes: None.

Comment: One commenter suggested we include a focus on infrastructure development and sustainability in PEP.

Discussion: We agree that infrastructure development and sustainability are important elements of a quality physical education program. Many of the elements of this program address both infrastructure development and sustainability, particularly those activities centered on updating nutrition and physical activity related policies; building linkages with Federal, State, and local initiatives; and updating physical education and nutrition curricula. In addition, applicants that opt to establish partnerships may strengthen their infrastructure and sustainability capabilities.

Changes: None.

Comment: Two commenters requested that we modify certain language used throughout the NPP. Specifically, these commenters stated that all references to the term "physical activity" should be changed to "physical education." The commenters also recommended that whenever the terms "nutrition" and "physical education" or "physical activity" appear, that "physical education" be placed first because the program's primary purpose is to improve physical education.

Discussion: There are differences between the terms "physical education" and "physical activity", and we believe that we have used each term to specifically reference either education or activity consistent with the context of the priorities, requirements, and definitions. We acknowledge that the intent of the program is to increase the percentage of students who meet their State standards for physical education; however, the program is also intended to help students adopt lifelong healthy habits, as evidenced by an increase in physical activity and better nutrition.

In this context, placing the terms "physical education" or "physical activity" before references to "nutrition" would be an artificial distinction that undercuts the concept of more coordinated, comprehensive PEP projects.

Changes: None.

Final Priorities: This priority is: *Absolute Priority.*

Under this priority, an applicant is required to develop, expand, or improve its physical education program and address its State's physical education standards by undertaking the following activities: (1) Instruction in healthy eating habits and good nutrition and (2) physical fitness activities that must include at least one of the following: (a) Fitness education and assessment to help students understand, improve, or maintain their physical well-being; (b) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student; (c) development of, and instruction in, cognitive concepts about motor skills and physical fitness that support a lifelong healthy lifestyle; (d) opportunities to develop positive social and cooperative skills through physical activity participation; or (e) opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

Competitive Preference Priority 1—Collection of Body Mass Index (BMI) Measurement

We will give a competitive preference priority to applicants that agree to implement aggregate BMI data collection, and use it as part of a comprehensive assessment of health and fitness for the purposes of monitoring the weight status of their student population across time. Applicants are required to sign a Program-Specific Assurance that will commit them to:

(a) Use the Centers for Disease Control and Prevention's (CDC) BMI-for-age growth charts to interpret BMI results (*http://www.cdc.gov/growthcharts*);

(b) Create a plan to develop and implement a protocol that will include parents in the development of their BMI assessment and data collection policies, including a mechanism to allow parents to provide feedback on the policy. Applicants are required to detail the following required components in their aggregate BMI data collection protocol: The proposed method for measuring BMI, who will perform the BMI assessment (*i.e.,* staff members trained to obtain accurate and reliable height and weight measurements), the frequency of reporting, the planned equipment to be used, methods for calculating the planned sampling frame (if the applicant would use sampling), the policies used to ensure student privacy during measurement, how the data will be secured to protect student confidentiality, who will have access to

the data, how long the data will be kept, and what will happen to the data after that time. Applicants that intend to inform parents of their student's weight status must include plans for notifying parents of that status, and must include their plan for ensuring that resources are available for safe and effective follow-up with trained medical care providers;

(c) Create a plan to notify parents of the BMI assessment and to allow parents to opt out of the BMI assessment and reasonable notification of their choice to opt out. Unless the BMI assessment is permitted or required by State law, LEA applicants are required to detail their policies for providing reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in the LEA's schools served by the agency. At a minimum, the LEA must provide such notice at least annually, at the beginning of the school year and within a reasonable period of time after any substantive change in such policies, pursuant to the Protection of Pupil Rights Amendment, 20 U.S.C. 1232h(c)(2)(A); and

(d) De-identify the student information (such as by removing the student's name and any identifying information from the record and assigning a record code), aggregate the BMI data at the school or district level, and make the aggregate data publicly available and easily accessible to the public annually. Applicants must describe their plan for the level of reporting they plan to use, depending on the size of the population, such as at the district level or the school level. Applicants must also detail in their application their plan for how these data will be used in coordination with other required data for the program, such as fitness, physical activity, and nutritional intake measures, and how the combination of these measures will be used to improve physical education programming and policy.

On June 18, 1991, 17 Federal Departments and Agencies, including the Department of Education, adopted a common set of regulations known as the Federal Policy for the Protection of Human Subjects or "Common Rule." See 34 CFR part 97. Applicants that engage in BMI data collection may be subject to the Department's Protection of Human Subjects regulations if the data are used in research funded by the Federal government or for any future research conducted by an institution that has adopted the Federal policy for all research of that institution. The regulations define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities." 34 CFR 97.102(d). Information on Human Subjects requirements is found at: *http://www.ed.gov/about/offices/list/ocfo/humansub.html.*

Applications that do not provide a Program-Specific Assurance signed by an Authorized Representative committing the applicant to completing previously listed tasks (a) through (d) during their project period are not eligible for additional points under competitive preference priority 1.

In implementing this priority, we encourage applicants to consult with their partners to determine if and how any of the partners could contribute to the data collection, reporting, or potential referral processes.

Competitive Preference Priority 2—Partnerships Between Applicants and Supporting Community Entities

We will give a competitive preference priority to an applicant that includes in its application an agreement that details the participation of required partners, as defined in this notice. The agreement must include a description of: (1) Each partner's roles and responsibilities in the project; (2) how each partner will contribute to the project, including any contribution to the local match; (3) an assurance that the application was developed after timely and meaningful consultation between the required parties, as defined in this notice; and (4) a commitment to work together to reach the desired goals and outcomes of the project. The partner agreement must be signed by the Authorized Representative of each of the required partners and by other partners as appropriate.

For an LEA applicant, this partnership agreement must include: (1) The LEA; (2) at least one CBO; (3) a local public health entity, as defined in this notice; (4) the LEA's food service or child nutrition director; and (5) the head of the local government, as defined in this notice.

For a CBO applicant, the partnership agreement must include: (1) The CBO; (2) a local public health entity, as defined in this notice; (3) a local organization supporting nutrition or healthy eating, as defined in this notice; (4) the head of the local government, as defined in this notice; and (5) the LEA from which the largest number of students expected to participate in the CBO's project attend. If the CBO applicant is a school, such as a parochial or other private school, the applicant must describe its school as part of the partnership agreement but is not required to provide an additional signature from an LEA or another school. A CBO applicant that is a school and serves its own population of students is required to include another CBO as part of its partnership and include the head of that CBO as a signatory on the partnership agreement.

Although partnerships with other parties are required for this priority, the eligible applicant must retain the administrative and fiscal control of the project.

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)).

Final Requirements

The Assistant Deputy Secretary for Safe and Drug-Free Schools establishes the following requirements for this program. We may apply one or more of these requirements in any year in which this program is in effect.

Requirement 1—Align Project Goals With Identified Needs Using the School Health Index

Applicants must complete the physical activity and nutrition questions in Modules 1–4 of the CDC's SHI self-assessment tool and develop project goals and plans that address the identified needs. Modules 1–4 are School Health and Safety Policies and

Environment, Health Education, Physical Activity and Other Physical Activity Programs, and Nutrition Services. LEA applicants must use the SHI self-assessment to develop a School Health Improvement Plan focused on improving these issues, and design an initiative that addresses their identified gaps and weaknesses. Applicants must include their Overall Score Card for the questions answered in Modules 1–4 in their application, and correlate their School Health Improvement Plan to their project design. Grantees must also complete the same modules of the SHI at the end of the project period and submit the Overall Score Card from the second assessment in their final reports to demonstrate SHI completion and program improvement as a result of PEP funding.

If a CBO applicant (unless the CBO is a school) is in a partner agreement with an LEA or school, it must collaborate with its partner or partners to complete Modules 1–4 of the SHI.

Alternatively, if the CBO has not identified a school or LEA partner, the CBO is not required to do Modules 1–4 of the SHI but must use an alternative needs assessment tool to assess the nutrition and physical activity environment in the community for children. CBO applicants are required to include their overall findings from the community needs assessment and correlate their findings with their project design. Grantees will be required to complete the same needs assessment at the end of their project and submit their findings in their final reports to demonstrate the completion of the assessment and program involvement as a result of PEP funding.

Requirement 2—Nutrition- and Physical Activity-Related Policies

Grantees must develop, update, or enhance physical activity policies and food- and nutrition-related policies that promote healthy eating and physical activity throughout students' everyday lives, as part of their PEP projects. Applicants must describe in their application their current policy framework, areas of focus, and the planned process for policy development, implementation, review, and monitoring. Grantees will be required to detail at the end of their project period in their final reports the physical activity and nutrition policies selected and how the policies improved through the course of the project.

Applicants must sign a Program-Specific Assurance that commits them to developing, updating, or enhancing these policies during the project period. Applicants that do not submit such a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 3—Linkage With Local Wellness Policies

Applicants that are participating in a program authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition and WIC Reauthorization Act of 2004must describe in their applications their school district's established local wellness policy and how the proposed PEP project will align with, support, complement, and enhance the implementation of the applicant's local wellness policy. The LEA's local wellness policy should address all requirements in the Child Nutrition Act of 1966.

CBO applicants must describe in their applications how their proposed projects would enhance or support the intent of the local wellness policies of their LEA partner(s), if they are working in a partnership group.

If an applicant or a member of its partnership group does not participate in the school lunch program authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition and WIC Reauthorization Act of 2004, it will not necessarily have a local wellness policy and, thus, is not required to meet this requirement or adopt a local wellness policy. However, we encourage those applicants to develop and adopt a local wellness policy, consistent with the provisions in the Richard B. Russell National School Lunch Act and the Child Nutrition and WIC Reauthorization Act of 2004 in conjunction with its PEP project.

Applicants must sign a Program-Specific Assurance that commits them to align their PEP project with the district's Local Wellness Policy, if applicable. Applicants to whom this requirement applies that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 4—Linkages With Federal, State, and Local Initiatives

If an applicant is implementing the CDC's Coordinated School Health program, it must coordinate project activities with that initiative and describe in its application how the proposed PEP project would be coordinated and integrated with the program.

If an applicant receives funding under the USDA's Team Nutrition initiative (Team Nutrition Training Grants), the applicant must describe in its application how the proposed PEP project supports the efforts of this initiative.

An applicant for a PEP project in a community that receives a grant under the Recovery Act Communities Putting Prevention to Work—Community Initiative must agree to coordinate its PEP project efforts with those under the Recovery Act Communities Putting Prevention to Work—Community Initiative.

Applicants and PEP-funded projects must complement, rather than duplicate, existing, ongoing or new efforts whose goals and objectives are to promote physical activity and healthy eating or help students meet their State standards for physical education.

Applicants must sign a Program-Specific Assurance that commits them to align their PEP project with the Coordinated School Health program, Team Nutrition Training Grant, Recovery Act Communities Putting Prevention to Work—Community Initiative, or any other similar Federal, State, or local initiatives. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 5—Updates to Physical Education and Nutrition Instruction Curricula

Applicants that plan to use grant-related funds, including Federal and non-Federal matching funds, to create, update, or enhance their physical education or nutrition education curricula are required to use the Physical Education Curriculum Analysis Tool (PECAT) and submit their overall PECAT scorecard, and the curriculum improvement plan from PECAT. Also, those applicants that plan to use grant-related funds, including Federal and non-Federal matching funds to create, update, or enhance their nutrition instruction in health education must complete the healthy eating module of the Health Education Curriculum Analysis Tool (HECAT). Applicants must use the curriculum improvement plan from the HECAT to identify curricular changes to be addressed during the funding period. Applicants must also describe how the HECAT assessment would be used to guide nutrition instruction curricular changes. If an applicant is not proposing to use grant-related funds for physical education or nutrition instruction curricula, it would not need to use these tools.

Requirement 6—Equipment Purchases

Purchases of equipment with PEP funds or with funds used to meet the program's matching requirement must be aligned with the curricular components of the proposed physical education and nutrition program. Applicants must commit to aligning the students' use of the equipment with PEP elements applicable to their projects, identified in the absolute priority in this notice, and any applicable curricula by signing a Program-Specific Assurance. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 7—Increasing Transparency and Accountability

Grantees must create or use existing reporting mechanisms to provide information on students' progress, in the aggregate, on the key program indicators, as described in this notice and required under the Government Performance and Results Act, as well as on any unique project-level measures proposed in the application. Grantees that are educational agencies or institutions are subject to applicable Federal, State, and local privacy provisions, including the Family Educational Rights and Privacy Act—a law that generally prohibits the non-consensual disclosure of personally identifiable information in a student's education record. All grantees must comply with applicable Federal, State, and local privacy provisions. The aggregate-level information should be easily accessible by the public, such as posted on the grantee's or a partner's Web site. Applicants must describe in their application the planned method for reporting.

Applicants must commit to reporting information to the public by signing a Program-Specific Assurance. Applicants that do not submit a Program-Specific Assurance signed by the applicant's Authorized Representative are ineligible for the competition.

Requirement 8—Participation in a National Evaluation

Applicants must provide documentation of their commitment to participate in the Department's national evaluation. An LEA applicant must include a letter from the research office or research board approving its participation in the evaluation (if approval is needed), and a letter from the Authorized Representative agreeing to participate in the evaluation.

Requirement 9—Required Performance Measures and Data Collection Methodology

Grantees must collect and report data on three GPRA measures using uniform data collection methods. Measure one assesses student physical activity levels: The percentage of students served by the grant who engage in 60 minutes of daily physical activity. Grantees are required to use pedometers for students in grades K–12 and an additional 3-Day Physical Activity Recall (3DPAR) instrument to collect data on students in grades 5–12.

Measure two focuses on student health-related fitness levels: The percentage of students served by the grant who achieve age-appropriate cardiovascular fitness levels. Grantees are required to use the 20-meter shuttle run, a criterion-referenced health-related fitness testing protocol, to assess cardiovascular fitness in middle and high school students.

Measure three focuses on student nutrition: The percentage of students served by the grant who consume fruit two or more times per day and vegetables three or more times per day. Programs serving high school students are required to use the nutrition-related questions from the Youth Risk Behavior Survey to determine the number of students who meet these goals. Programs serving elementary and middle school students are not required to use a specific measurement tool, and may select an appropriate assessment tool for their population.

For each measure, grantees are required to collect and aggregate data from four discrete data collection periods throughout each year. During the first year, grantees have an additional data collection period prior to program implementation to collect baseline data.

Final Definitions

The Assistant Deputy Secretary for Safe and Drug-Free Schools applies the following definitions for this program.

We may apply one or more of these definitions in any year in which this program is in effect.

Head of local government means the head of, or an appropriate designee of, the party responsible for the civic functioning of the county, city, town, or municipality would be considered the head of local government. This includes, but is not limited to, the mayor, city manager, or county executive.

Local public health entity means an administrative or service unit of local or State government concerned with health and carrying some responsibility for the health of a jurisdiction smaller than the State (except for Rhode Island and Hawaii, because these States' health departments operate on behalf of local public health and have no sub-State unit). The definition applies to the State health department or the State public health entity in the event that the local public health entity does not govern health and nutrition issues for the local area.

Organization supporting nutrition or healthy eating means a local public or private non-profit school, health-related professional organization, local public health entity, or local business that has demonstrated interest and efforts in promoting student health or nutrition. This term includes, but is not limited to LEAs (particularly an LEA's school food or child nutrition director), grocery stores, supermarkets, restaurants, corner stores, farmers' markets, farms, other private businesses, hospitals, institutions of higher education, Cooperative Extension Service and 4H Clubs, and community gardening organizations, when such entities have demonstrated a clear intent to promote student health and nutrition or have made tangible efforts to do so. This definition does not include representatives from trade associations or representatives from any organization representing any producers or marketers of food or beverage product(s).

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities and requirements, we invite applications through a notice in the **Federal Register**.

Executive Order 12866: 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 final regulatory action.

The potential costs associated with this final regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this final regulatory action, we have determined that the benefits of the final priorities and requirements justify the costs.

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

Discussion of Costs and Benefits

We fully discussed the costs and benefits of this regulatory action in the

notice of proposed priorities, requirements, and definitions. After review, we determined that, although grantees may anticipate costs in developing infrastructure partnerships, supporting integrated, comprehensive programming and policies, and building data and accountability systems and processes, the benefits of the priorities, requirements, and definitions justify the costs.

Regulatory Flexibility Act Certification

The Secretary certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities. The small entities that this proposed regulatory action will affect are small LEAs or nonprofit organizations applying for and receiving funds under this program. The Secretary believes that the costs imposed on applicants by the priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits of implementing these proposals would outweigh any costs incurred by applicants.

Participation in this program is voluntary. For this reason, the priorities, requirements, and definitions would impose no burden on small entities in general. Eligible applicants will determine whether to apply for funds, and have the opportunity to weigh the requirements for preparing applications, and any associated costs, against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to spur improvement in physical education planning without additional Federal funding.

The U.S. Small Business Administration Size Standards defines as "small entities" for-profit or nonprofit institutions with total annual revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000. The Urban Institute's National Center for Charitable Statistics reported that of 203,635 nonprofit organizations that had an educational mission and reported revenue to the IRS by July 2009, 200,342 (or about 98 percent) had revenues of less than $5 million. In addition, there are 12,484 LEAs in the country that meet the definition of small entity. However, given program history, the Secretary believes that only a small number of these entities would be interested in applying for funds under this program, thus reducing the likelihood that this final regulatory action would have a significant economic impact on small entities.

Further, the action may help small entities determine whether they have the interest, need, or capacity to implement activities under the program and, thus, prevent small entities that do not have such an interest, need, and capacity from absorbing the burden of applying.

This regulatory action would not have a significant economic impact on small entities once they receive a grant because they would be able to meet the costs of compliance using the funds provided under this program and with any funds they might obtain from external parties to fulfill the matching requirements of the 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: Individuals with disabilities can 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**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 14, 2010.

Kevin Jennings,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. 2010–14730 Filed 6–15–10; 4:15 pm]

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DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Carol M. White Physical Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215F.

Dates:

Applications Available: June 18, 2010.

Deadline for Transmittal of Applications: July 19, 2010.

Deadline for Intergovernmental Review: September 16, 2010.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Carol M. White Physical Education Program (PEP) provides grants to local educational agencies (LEAs) and community-based organizations (CBOs) to initiate, expand, and improve physical education for students in grades K–12. Grant recipients must implement programs that help students make progress toward meeting State standards.

Priorities: These priorities are from the notice of final priorities, requirements, and definitions for this program, published elsewhere in this issue of the **Federal Register**.

Absolute Priority:

For FY 2010 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

The priority is:

Under this priority, an applicant is required to develop, expand, or improve its physical education program and address its State's physical education standards by undertaking the following activities: (1) instruction in healthy eating habits and good nutrition and (2) physical fitness activities that must include at least one of the following: (a) Fitness education and assessment to help students understand, improve, or maintain their physical well-being; (b) instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student; (c) development of, and