

April 10, 2017

Dear Colleague:

I am writing to apprise you of two matters concerning implementation of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA): (1) to follow up on the [Dear Colleague Letter](#) sent on January 13, 2017, regarding school support and improvement activities in the 2017-2018 school year and (2) to clarify the stakeholder consultation requirements that apply to consolidated State plans. I want to thank you for the substantial work that you continue to do for a successful transition to the new law. The reauthorized ESEA provides a significant opportunity for States and school districts to develop and implement new plans to help secure educational equity for all children and close achievement gaps by supporting students, families, and educators.

As you know, on March 9, 2017, pursuant to the Congressional Review Act (CRA) (5 U.S.C. §§ 801-808), Congress approved a joint resolution disapproving the U.S. Department of Education's (Department's) regulations related to State plans, including consolidated State plans, statewide accountability systems, and data reporting. The President signed the Congressional resolution on March 27, 2017, which means that the regulations have no force or effect. In anticipation of this action under the CRA, the Department released a revised consolidated State plan template (available at: <https://www2.ed.gov/admins/lead/account/stateplan17/plans.html>) on March 13, 2017, to support States in meeting the requirements of the ESEA, as amended by the ESSA.

The Department retained its original two windows for State plan submissions established prior to the Congressional resolution—April 3, 2017 and September 18, 2017. We anticipate that many States will not have their State plans, including their methodologies for identifying schools for comprehensive or targeted support and improvement, approved prior to the start of the 2017-2018 school year and, therefore, will not be ready to fully implement their new accountability system in the 2017-2018 school year. Consequently, the purpose of this letter is to address key questions relating to the implementation timeline, school improvement requirements for the 2017-2018 school year, and stakeholder consultation requirements that apply to consolidated State plans.

### **Transition to School Support and Improvement Under the ESEA, as amended by the ESSA**

#### ***Timeline for Implementation***

In the absence of the regulations that extended the ESSA implementation timeline, but consistent with the provisions of the ESSA that authorize the Department to ensure an orderly transition to the new law, a State may delay, until the 2018-2019 school year, identification of: (1) schools for comprehensive support and improvement and (2) schools in which any subgroup of students, on its own, would place the school among the lowest-performing five percent of all schools receiving Title I, Part A funds and that must implement targeted support and improvement plans.

#### ***Supporting Low-Performing Schools in the 2017–2018 School Year***

Each State without an approved ESSA State plan must continue to provide supports and interventions in the State's low-performing schools in the 2017-2018 school year in the same

manner as in the 2016-2017 school year. However, a State has options with respect to how it identifies the low-performing schools it will support in the 2017-2018 school year. In particular, pursuant to the authority to ensure an orderly transition to the new law, to identify its low-performing schools for 2017-2018 as described previously:

- A State that operated under ESEA flexibility prior to the termination of that flexibility on August 1, 2016, may either: (1) continue to support and intervene in its existing priority and focus schools, except that the State may remove from the list of priority and focus schools any school that has met the State's exit criteria; or (2) refresh its list using the methodology in place prior to the start of the 2017-2018 school year.
- A State that did not operate under ESEA flexibility prior to August 1, 2016, may continue to support and intervene in schools or local educational agencies (LEAs) that were identified in the 2016-2017 school year by the State as in need of improvement, corrective action, or restructuring, except that the State may remove from the list any school or LEA that has met State-determined criteria to no longer be identified for improvement, corrective action, or restructuring.

Alternatively, pursuant to the authority to ensure an orderly transition to the ESEA, as amended by the ESSA, a State may, in order to identify the low-performing schools it will support in the 2017-2018 school year, choose to refresh its list using a methodology the State determines is consistent with the State's new plan under the ESSA, even if the Department has not yet approved that plan. If a State chooses to use this new option to identify low-performing schools for the 2017-2018 school year, it must do so prior to the start of the school year. Note, however, that based on the result of the Department's peer review of the State plan, the State may need to modify the methodologies for identification of low-performing schools within its State plan for school years beginning in 2018-2019 to meet the statutory requirements in sections 1111(c) and 1111(d) of the ESEA, as amended by the ESSA. Although a State must submit, as part of its State plan, these methodologies, the State is not required to submit its list of low-performing schools for the 2017-2018 school year to the Department for review or approval.

Each State must allocate fiscal year 2017 funds (*i.e.*, for use in the 2017-2018 school year) under section 1003(a) of the ESEA, as amended by the ESSA, by competition or by formula to LEAs with low-performing schools identified consistent with the options described above. A State that does not allocate all of the school improvement funds it reserves in fiscal year 2017 to serve identified schools in the 2017-2018 school year may, under section 421(b) of the General Education Provisions Act, carry over any remaining funds for use in the 2018-2019 school year, once it has an approved State plan and identified schools to implement comprehensive and targeted support and improvement plans.

In particular, we encourage a State choosing to exit schools from improvement status in the 2017-2018 school year—without refreshing its lists of low-performing schools—to consider carrying over a portion of its fiscal year 2017 school improvement funds for use in the 2018-2019 school year. By doing so, a State would have additional funds to support its first cohort of schools identified under the ESEA, as amended by the ESSA, when LEAs and schools will require additional support to implement the new school improvement provisions, including

evidence-based interventions, required by the new law. In addition, a State may choose to use the funds that it reserves in fiscal year 2017 to support full implementation of SIG awards initially made with prior-year funds, as described in the Department's [letter](#) to SIG Directors from March 2016.

### **Stakeholder Consultation regarding Consolidated State Plans**

I also want to take this opportunity to clarify that, in developing its consolidated State plan, your State must meet the statutory consultation requirements of the individual programs included in the consolidated State plan. For example, if you include Title I, Part A in your consolidated State plan, your State must meet the consultation requirements in sections 1111(a)(1)(A) and 1111(a)(8) of the ESEA, as amended, for the Title I portion of its plan. (See also ESEA section 1304(c)(3) for Title I, Part C; ESEA section 2101(d)(3) for Title II, Part A; ESEA sections 3113(b)(2) and 3113(b)(3)(G) for Title III, Part A; and ESEA section 4203(a)(12)(A) for Title IV, Part B). A State is not required to include in its consolidated State plan a description of how it met those consultation requirements. However, a State may include supplemental information such as its efforts to consult with and engage stakeholders in compliance with the requirements of the law when developing its consolidated State plan. Most States acting in accordance with the statute and regulations prior to Congressional action should have already met these requirements.

The Department's guidance related to the transition to the ESSA can be found at <http://www2.ed.gov/policy/elsec/leg/essa/index.html>. If you have any questions or need additional information, I encourage you to reach out to your Office of State Support contact at OSS.[State]@ed.gov (e.g., [OSS.Nebraska@ed.gov](mailto:OSS.Nebraska@ed.gov)). Additionally, I encourage you to sign up to receive updates on ESSA guidance, including transition guidance, by clicking [here](#).

Thank you for your ongoing commitment to improving educational outcomes for all students.

Sincerely,

Monique M. Chism, Ph.D.  
Acting Assistant Secretary  
Elementary and Secondary Education