



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 19, 2017

The Honorable Pam Stewart
Commissioner of Education
Florida Department of Education
Turlington Building, Suite 1514
Tallahassee, FL 32399-0100

Dear Commissioner Stewart:

Thank you for submitting Florida's consolidated State plan to implement requirements of covered programs under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), and of the amended McKinney-Vento Homeless Assistance Act (McKinney-Vento Act).

I am writing to provide initial feedback based on the U.S. Department of Education's (the Department's) review of your consolidated State plan. As you know, the Department also conducted, as required by the statute, a peer review of the portions of your State plan related to ESEA Title I, Part A, ESEA Title III, Part A, and the McKinney-Vento Act using the Department's *State Plan Peer Review Criteria* released on March 28, 2017. Peer reviewers examined these sections of the consolidated State plan in their totality, while respecting State and local judgments. The goal of the peer review was to support State- and local-led innovation by providing objective feedback on the technical, educational, and overall quality of the State plan and to advise the Department on the ultimate approval of the plan. I am enclosing a copy of the peer review notes for your consideration.

Based on the Department's review of all programs submitted under Florida's consolidated State plan, including those programs subject to peer review, the Department is requesting clarifying or additional information to ensure the State's plan has met all statutory and regulatory requirements, as detailed in the enclosed table. Each State has flexibility in how it meets the statutory and regulatory requirements. Please note that the Department's feedback may differ from the peer review notes. I encourage you to read the full peer notes for additional suggestions and recommendations for improving your consolidated State plan.

ESEA section 8451 requires the Department to issue a written determination within 120 days of a State's submission of its consolidated State plan. Given this statutory requirement, I ask that you revise Florida's consolidated State plan and resubmit it through OMB Max by January 4, 2018. We encourage you to continue to engage in consultation with stakeholders, including representatives from the Governor's office, as you develop and implement your State plan. If you would like to take more time to resubmit your consolidated State plan, please contact your Office of State Support Program Officer in writing and indicate your new submission date.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Please recognize that if we accommodate your request for additional time, a determination on the ESEA consolidated State plan may be rendered after the 120-day period.

Department staff will contact you to support Florida in addressing the items enclosed with this letter. If you have any immediate questions or need additional information, I encourage you to contact your Program Officer for the specific Department program.

Please note that the Department only reviewed information provided in Florida's consolidated State plan that was responsive to the Revised Template for the Consolidated State Plan that was issued on March 13, 2017. Each State is responsible for administering all programs included in its consolidated State plan consistent with all applicable statutory and regulatory requirements. Additionally, the Department can only review and approve complete information. If Florida indicated that any aspect of its plan may change or is still under development, Florida may include updated or additional information in its resubmission. Florida may also propose an amendment to its approved plan when additional data or information are available consistent with ESEA section 1111(a)(6)(B). The Department cannot approve incomplete details within the State plan until the State provides sufficient information.

Thank you for the important work that you and your staff are doing to support the transition to the ESSA. The Department looks forward to working with you to ensure that all children have the opportunity to reach their full potential.

Sincerely,

/s/

Jason Botel
Principal Deputy Assistant Secretary,
Delegated the authority to perform the
functions and duties of the position of
Assistant Secretary, Office of
Elementary and Secondary Education

Enclosures

cc: Governor
State Title I Director
State Title II Director
State Title III Director
State Title IV Director
State Title V Director
State 21st Century Community Learning Center Director
State Director for McKinney-Vento Homeless Assistance Act: Education for Homeless
Children and Youths Program

Items That Require Additional Information or Revision in Florida’s Consolidated State Plan

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies (LEAs)	
<p>A.2.iii: Eighth Grade Math Exception: Strategies</p>	<p>Section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA), and 34 C.F.R. § 200.5(b) permit the Florida Department of Education (FDOE) only to exempt an eighth-grade student who takes the high school mathematics course associated with the end-of-course (EOC) assessment(s) the State administers to high school students under ESEA section 1111(b)(2)(B)(v)(I)(bb) from the mathematics assessment the State typically administers in eighth grade under ESEA section 1111(b)(2)(B)(v)(I)(aa). In order for the Department to ensure that FDOE is meeting the requirement in ESEA section 1111(b)(2)(B)(v)(I)(bb), FDOE must specify the mathematics EOC assessment(s) that it administers. FDOE may not exempt middle school students who are not in 8th grade who take the high school mathematics assessment(s) the State uses for Federal accountability purposes under ESEA section 1111(b)(2)(B)(v)(I)(bb) or 8th-grade students who take an advanced mathematics course that the State does not use to meet the requirements under ESEA section 1111(b)(2)(B)(v)(I)(bb). Moreover, FDOE may not exempt any middle school students, including 8th grade students, who take high school EOC assessments in reading/language arts or science under 1111(b)(2)(B)(v)(I)(bb) and (II)(cc).</p>
<p>A.3.i: Native Language Assessments Definition</p>	<p>In its State plan, FDOE does not provide a definition for languages other than English that are present to a significant extent in the participating student population or identify the language or languages that meet the definition. While FDOE notes that it only provides services in English, ESEA section 1111(b)(2)(F) and 34 C.F.R. § 200.6(f)(2)(ii) require FDOE to provide a definition of languages other than English that are present to a significant extent in the participating student population and identify the specific language(s) that meet this definition, which must include at least the most populous language other than English spoken by the State’s participating student population.</p>
<p>A.4.i.a: Major Racial and Ethnic Subgroups of Students</p>	<p>The ESEA requires a State to include in its accountability system subgroups of students, including students from each major racial and ethnic group. FDOE’s State plan is inconsistent between the subgroups listed in A.4.i.a and the subgroups listed in other sections of the plan. In particular, the Asian subgroup is missing from the list of subgroups on page 9. Additionally, the charts identifying long-term goals and measurements of interim progress provided on pages 61-62 in Appendix A combine two subgroups (American Indians and Pacific Islanders) into a single “Other Students” subgroup. This subgroup is only permissible if each of the individual racial and</p>

	<p>ethnic subgroups is also separately included in the State’s plan.</p>
<p>A.4.iii.a.1: Academic Achievement Long-term Goals</p>	<p>In its State plan, FDOE provides long-term goals and measurements of interim progress for academic achievement that are based on the size of the achievement gap between each subgroup and a comparison subgroup. Although FDOE provides baseline data for the all students group, it does not provide baseline data for any subgroup. The ESEA requires a State to identify and describe ambitious long-term goals and measurements of interim progress for improved academic achievement, as measured by grade-level proficiency, on the annual statewide reading/language arts and mathematics assessments for all students and for each subgroup of students. The ESEA also requires that a State’s long-term goals and measurements of interim progress for academic achievement take into account the improvement necessary for subgroups of students who are behind in reaching those goals to make significant progress in closing statewide proficiency gaps (requirements A.4.iii.a.2 and 3). Because FDOE does not include baseline data for each subgroup of students, it is unclear whether FDOE meets the statutory requirements that the goals be ambitious and take into account the improvement necessary for subgroups of students who are behind in reaching those goals to make significant progress in closing proficiency gaps, as well as ensuring that high-performing subgroups continue to improve their performance.</p>
<p>A.4.iii.b.1: Long-term Goals for Four-year Adjusted Cohort Graduation Rate</p>	<p>In its State plan, FDOE provides long-term goals and measurements of interim progress for graduation rates that are based on the size of the graduation rate gap between each subgroup and a comparison subgroup. Although FDOE provides baseline data for the all students group, FDOE does not provide baseline data for any subgroup. The ESEA requires a State to identify and describe ambitious long-term goals and measurements of interim progress to improve the four-year adjusted cohort graduation rate for all students and for each subgroup of students. The ESEA also requires that a State’s long-term goals and measurements of interim progress for graduation rate take into account the improvement necessary for subgroups of students who are behind in reaching those goals to make significant progress in closing statewide graduation rate gaps (requirements A.4.iii.b.2 and 3). Because FDOE does not include baseline data for each subgroup, it is unclear whether FDOE meets the statutory requirements that the goals be ambitious and take into account the improvement necessary for subgroups of students who are behind in reaching those goals to make significant progress in closing graduation rate gaps, as well as ensuring that high-performing subgroups continue to improve their performance.</p>
<p>A.4.iv.a: Academic Achievement Indicator</p>	<ul style="list-style-type: none"> • FDOE indicates that its Academic Achievement indicator is calculated as a percentage of the students taking the State assessment who are deemed to have earned a “passing” (page 18) score. The ESEA requires that the Academic Achievement indicator be measured by grade-

	<p>level proficiency on the annual statewide reading/language arts and mathematics assessments. FDOE indicates that a passing score is any score at Level 3 or above, but it is unclear what score level FDOE considers to be an indication that a student has attained grade-level proficiency. As a result, it is unclear whether FDOE has met this requirement.</p> <ul style="list-style-type: none"> • The ESEA requires a State, for purposes of measuring, calculating, and reporting the Academic Achievement indicator, to include in the denominator the greater of 95 percent of all students (or 95 percent of students in each subgroup, as the case may be) or the number of students participating in the assessments (ESEA section 1111(c)(4)(E)(ii)). While a State is permitted to lower a school’s determination in the system of annual meaningful differentiation as a result of participation lower than 95 percent at the discretion of the Commissioner of Education, the ESEA does not provide a State with discretion in determining the number to be used in the denominator when calculating the Academic Achievement indicator. FDOE does not meet this statutory requirement because FDOE proposes to allow the State’s Commissioner of Education to improve a school’s determination in the system of annual meaningful differentiation if the calculation has been negatively affected by a participation rate lower than 95 percent. • The ESEA requires that this indicator be measured by proficiency on the annual assessments required under ESEA section 1111(b)(2)(B)(v)(I). Because FDOE is not clear about which high school assessments are included as part of this indicator, it is unclear whether the State meets this requirement.
<p>A.4.iv.d: Progress in Achieving English Language Proficiency Indicator</p>	<p>FDOE indicates that it will measure progress in achieving English language proficiency at the school level but does not include this measure in its accountability calculation. In addition, FDOE indicates that it will only include students in kindergarten through 12th grade that are enrolled in an ESOL program. The ESEA requires a State to establish and describe a Progress in Achieving English Language Proficiency indicator that includes an annual measure of progress of English learners in achieving English language proficiency, as defined by the State and measured by the statewide English language proficiency assessment, and include this indicator, along with all the State’s other indicators, in the State’s accountability system to meaningfully differentiate among schools. Because FDOE does not include a Progress in Achieving English Language Proficiency indicator in its accountability system, it has not met this requirement. When FDOE includes this indicator in its accountability system, it must ensure that the indicator consistently measures the progress of all English learners in the State, not just those enrolled in ESOL programs, and ensure that the indicator does not exclude students on the basis of length of time in</p>

	attendance, except as provided in ESEA section 1111(c)(4)(F).
A.4.iv.e: School Quality or Student Success Indicator(s)	In its State plan, FDOE describes School Quality or Student Success indicators for middle and high schools that it calls “acceleration measures.” For middle schools, the acceleration measure is the “percentage of eligible middle school students who passed a high school level EOC or industry certification.” For high schools, the acceleration measure “is based on the percentage of graduates from the graduation rate cohort who earned a score on an acceleration examination (AP, IB, or AICE) or a grade in a dual enrollment course that qualified the students for college credit or an industry certification.” The ESEA requires that each indicator annually measure results for all students and separately for each subgroup of students and allow for meaningful differentiation in school performance across the State. Because FDOE has not fully described how it will calculate these acceleration measures for middle and high schools to ensure that they include all students or how the indicators will allow for meaningful differentiation, it is unclear whether FDOE meets the statutory requirements.
A.4.v.a: State’s System of Annual Meaningful Differentiation	The ESEA requires a State to establish and describe in its State plan its system of annual meaningful differentiation, including a description of how the system is based on all indicators, for all students and all subgroups of students. In describing its system of annual meaningful differentiation in its State plan, FDOE does not include the Progress in Achieving English Language Proficiency indicator. As a result, FDOE has not met the statutory requirements.
A.4.v.b: Weighting of Indicators	The ESEA requires a State to establish and describe in its State plan its system of meaningfully differentiating all public schools based on all indicators, including the Progress in Achieving English Language Proficiency indicator, which must receive substantial weight in the State’s system. Because FDOE does not describe how the Progress in Achieving English Language Proficiency indicator is included in the system and that it receives substantial weight individually, FDOE has not met the statutory requirements.
A.4.v.c: If Applicable, Different Methodology for Annual Meaningful Differentiation	<p>The ESEA requires a State to include all public schools in its system of annual meaningful differentiation and to describe that system in its State plan.</p> <ul style="list-style-type: none"> • FDOE indicates that K-3 schools that do not receive a school grade on their own are eligible to receive the school grade of the school to which a majority of their students matriculate. If K-3 schools are only considered eligible to receive a grade, it is not clear whether all K-3 schools are in fact receiving a grade and therefore included in the State’s accountability system. It is therefore unclear whether FDOE meets the statutory requirements. • FDOE indicates that alternative schools and Exceptional Student Education (ESE) center schools in Florida have a choice as to whether to receive an accountability determination

	<p>based on the statewide system of annual meaningful differentiation. Because FDOE proposes to use a different accountability methodology for these schools even though an accountability determination can be made under its statewide system of annual meaningful differentiation, it appears that FDOE does not meet the statutory requirements, including that any high school that fails to graduate one third or more of its students be identified for comprehensive support and improvement.</p> <ul style="list-style-type: none"> • In regards to education programs at Department of Juvenile Justice facilities, which appear not to receive accountability determinations, it is unclear whether these are public schools consistent with State law; whether they receive Federal education funds under the ESEA or the Individuals with Disabilities Education Act; and whether these schools are under the jurisdiction of the SEA. As a result, it is unclear if FDOE meets the statutory requirement to include all public schools in its system of annual meaningful differentiation.
<p>A.4.vi.a Comprehensive Support and Improvement Schools— Lowest Performing</p>	<p>The ESEA requires that a State identify for comprehensive support and improvement at least the lowest-performing five percent of all Title I, Part A schools. Although FDOE indicates that its proposed methodology results in at least the lowest-performing five percent of Title I schools based on data from school year 2016-2017, it does not describe how it will ensure that, each time comprehensive support and improvement schools are identified, at least five percent of its lowest-performing Title I schools will be identified. As a result, it is unclear that FDOE has met the statutory requirements.</p>
<p>A.4.vi.c: Comprehensive Support and Improvement Schools— Additional Targeted Support Not Exiting Such Status</p>	<p>Because FDOE has not proposed a methodology for identifying additional targeted support schools that meets requirements (see A.4.vi.f below), FDOE has not met the requirement to identify as comprehensive support and improvement schools those additional targeted support schools that receive Title I, Part A funds and that have not exited such status within a State-determined number of years. When FDOE revises its methodology for identifying additional targeted support schools to meet statutory requirements, it should also make commensurate adjustments to this section of its plan to reflect the change.</p>
<p>A.4.vi.e: Targeted Support and Improvement Schools— “Consistently Underperforming” Subgroups</p>	<p>The ESEA requires a State to describe a methodology for identifying schools in which any subgroup of students is consistently underperforming, as defined by the State, based on all indicators in the statewide system of annual meaningful differentiation. FDOE proposes a methodology that is based on its system for awarding school letter grades, which is based on the performance of only the all students group and the lowest performing 25 percent subgroup rather than on the performance of each subgroup. In addition, FDOE’s method for identifying schools is not based on all required indicators, as it does not currently include the ELP indicator.</p>

<p>A.4.vi.f: Targeted Support and Improvement Schools— Additional Targeted Support</p>	<p>The ESEA requires that a State describe its methodology for identifying schools for additional targeted support in which any subgroup of students, on its own, would lead to identification for comprehensive support and improvement under ESEA section 1111(c)(4)(D)(i)(I) using the State’s methodology under ESEA section 1111(c)(4)(D) (i.e., would lead to identification as among the lowest-performing five percent of schools receiving Title I, Part A funds). FDOE identifies a methodology for identifying additional targeted support schools as any school that receives a D grade in the State’s accountability system and that has not already been identified for comprehensive support and improvement (i.e., a school that has received two consecutive D grades). This methodology does not identify each school in which any subgroup of students, on its own, is performing as poorly as the lowest-performing five percent of schools receiving Title I, Part A funds and as a result it does not appear that FDOE has met the statutory requirements.</p>
<p>A.4.viii.d: Resource Allocation Review</p>	<p>The ESEA requires a State to periodically review resource allocation to support school improvement in each LEA in the State serving a significant number or percentage of schools identified for comprehensive or targeted support and improvement. In its State plan, FDOE describes the regional field teams it will deploy to provide “strategic problem solving and capacity building” to comprehensive and targeted support and improvement schools. However, it is not clear from this description that FDOE will periodically review resource allocation to support school improvement in each LEA in the State serving a significant number or percentage of schools identified for comprehensive or targeted support and improvement.</p>
<p>A.5: Disproportionate Rates of Access to Educators</p>	<ul style="list-style-type: none"> • Although FDOE provides definitions for ineffective, inexperienced, and out-of-field teachers, FDOE does not describe the extent to which low-income or minority students enrolled in schools assisted under Title I, Part A are served at disproportionate rates by any of these types of educators. The ESEA requires a State to describe the extent, if any, that low-income and minority children enrolled in schools assisted under Title I, Part A are served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers. • The ESEA also requires a State to describe the measures it will use to evaluate and publicly report its progress with respect to how low-income and minority children are not served at disproportionate rates by ineffective, out-of-field, and inexperienced teachers; FDOE has not met this requirement.
<p>Title I, Part C: Education of Migratory Children</p>	
<p>B.1: Supporting Needs of Migratory Children</p>	<ul style="list-style-type: none"> • FDOE describes how it will identify the unique educational needs of migratory children. However, the ESEA requires that a State also describe how it will identify the unique educational needs of preschool migratory children and migratory children who have dropped

	<p>out of school.</p> <ul style="list-style-type: none"> • The ESEA requires that a State describe how, in planning, implementing, and evaluating the Migrant Education Program, it will address the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, through: <ul style="list-style-type: none"> ○ The full range of services that are available for migratory children from appropriate local, State, and Federal educational programs; ○ Joint planning among local, State, and Federal educational programs serving migratory children, including language instruction educational programs under Title III, Part A; and ○ The integration of services available under Title I, Part C with services provided by those other programs. <p>FDOE did not provide sufficient information to address these requirements.</p>
<p>Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk</p>	
<p>C.1: Transitions Between Correctional Facilities and Local Programs</p>	<p>Although FDOE includes a plan for assisting in the transition of children and youth from correctional facilities to locally operated programs, it does not include a plan for assisting in the transition of children and youth <i>between</i> locally operated programs and correctional facilities (i.e., the transition from correctional facilities to locally operated programs as well as the transition from locally operated programs to correctional facilities). The ESEA requires a plan for assisting in the transition of children and youth between locally operated programs and correctional facilities.</p>
<p>Title III, Part A, Subpart 1: English Language Acquisition and Language Enhancement</p>	
<p>E.1: Entrance and Exit Procedures</p>	<ul style="list-style-type: none"> • In this section, FDOE does not provide a description of how it will establish and implement statewide entrance and exit procedures for English learners, although it does discuss the consultation held on the issue. • On page 17, FDOE mentions exiting English learners based on a score on the reading/language arts assessment without a proficient score on the ELP assessment, and the use of committees for exit decisions, without clarity on whether a passing ELP assessment score is required. These exit criteria appear inconsistent with Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunities Act, which require a valid and reliable assessment of the four language domains (speaking, listening, reading, and writing) for the purpose of ensuring that English learners have achieved English language proficiency before exiting such students from EL services (See ED/DOJ Dear Colleague Letter: English

	<p>Learner Students and Limited English Proficient Parents (2015); Policy Update on Schools’ Obligations Toward National-Origin Minority Students with Limited-English Proficiency (September 1991)).</p> <ul style="list-style-type: none"> ○ Please note that the Department only reviewed information provided in Florida’s consolidated State plan that was responsive to the Revised Template for the Consolidated State Plan that was issued on March 13, 2017. The Department’s review of consolidated State plans is not a determination that all the information and data included in the State plan comply with Federal civil rights requirements, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and requirements under the Individuals with Disabilities Education Act. It is FLDOE’s responsibility to comply with all civil rights requirements.
<p>Education for Homeless Children and Youths Program, McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B</p>	
<p>I.2: Dispute Resolution</p>	<p>In its State Plan, FDOE describes procedures for the resolution of disputes regarding educational placement. FDOE does not, however, include procedural timelines or any other information that indicates that these procedures would result in the <i>prompt</i> resolution of disputes. The McKinney-Vento Act requires a State to describe procedures for the prompt resolution of disputes.</p>
<p>I.3: Support for School Personnel</p>	<p>In its State plan, FDOE describes training and outreach by LEA liaisons, with support from the SEA, for school personnel to heighten the awareness of such school personnel of the needs of homeless children and youth, including unaccompanied homeless youth. FDOE does not, however, describe how these activities will heighten the awareness of such school personnel of the specific needs of <i>runaway and homeless</i> children and youth. The McKinney-Vento Act requires the State to describe programs for school personnel (including the LEA liaisons for homeless children and youth, principals and other school leaders, attendance officers, teachers, enrollment personnel, and specialized instructional support personnel) to heighten the awareness of such school personnel of the specific needs of runaway and homeless children and youth.</p>
<p>I.5: Strategies to Address Other Problems</p>	<p>While FDOE provides several general strategies in its State plan to address problems resulting from enrollment delays, FDOE does not make clear whether these strategies specifically address problems resulting from enrollment delays that are caused by — (i) requirements of immunization and other required health records; (ii) residency requirements; (iii) lack of birth certificates, school records, or other documentation; (iv) guardianship issues; (v) uniform or dress code requirements. The McKinney-Vento Act requires a State to provide strategies to address problems resulting from enrollment delays that are caused by — (i) requirements of immunization</p>

	<p>and other required health records; (ii) residency requirements; (iii) lack of birth certificates, school records, or other documentation; (iv) guardianship issues; (v) uniform or dress code requirements.</p>
<p>I.6: Policies to Remove Barriers</p>	<p>While FDOE describes several processes in its State Plan for the SEA and LEA to develop, review and revise policies to remove barriers to the identification, enrollment and retention of homeless children and youth, FDOE does not demonstrate that the SEA and LEAs have developed policies that they will review and revise to address specific to barriers to enrollment and retention <i>due to outstanding fees or fines, or absences</i>. The McKinney-Vento Act requires the State to demonstrate how the SEA and LEAs in the State have developed policies that they will review and revise to remove barriers to the enrollment and retention of homeless children and youth in the State due to outstanding fees or fines, or absences.</p>