



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

June 13, 2017

The Honorable Hanna Skandera
Secretary of Education
New Mexico Public Education Department
300 Don Gaspar
Santa Fe, NM 87501

Dear Secretary Skandera:

Thank you for submitting New Mexico'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) 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 a 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 New Mexico's consolidated State plan, including those programs subject to peer review, the Department has identified in an enclosure to this letter the items that New Mexico must address in order for the Secretary to approve New Mexico's consolidated State plan. 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, but New Mexico is required to address only those areas identified by the Department as requiring additional information or revision to obtain approval of its 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 New Mexico's consolidated State plan and resubmit it through OMB Max within 15 days of the date of this letter. If you need more time than this to resubmit your consolidated State plan, please contact your Office of State Support Program Officer, who will work with you in establishing a new submission date. Please recognize that if we accommodate your request for

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additional time, we may be unable to issue a written determination on your plan within the 120-day review period.

Department staff will contact you to support New Mexico 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 New Mexico'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.

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
Acting Assistant Secretary

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 New Mexico’s Consolidated State Plan

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies	
<p>A.2.iii: Eighth Grade Math Exception: Strategies</p>	<ul style="list-style-type: none"> • The New Mexico Public Education Department (NMPED) must clarify that, consistent with ESEA section 1111(b)(2)(C) and 34 CFR § 200.5(b), the State will only exempt an eighth-grade student who takes the high school mathematics course associated with the end-of-course assessment the State administers to high school students for Federal accountability under ESEA section 1111(b)(2)(B)(v)(I)(bb) from the mathematics assessment typically administered in eighth grade under ESEA section 1111(b)(2)(B)(v)(I)(aa). NMPED did not specify that the assessment that a student takes in eighth grade, under this exception, is limited to the end-of-course mathematics assessment the State administers to high school students for Federal accountability under ESEA section 1111(b)(2)(B)(v)(I)(bb). • Although the State described strategies that will provide all students in the State the opportunity to take advanced mathematics coursework in middle school, NMPED did not describe strategies that will provide all students in the State the opportunity to be prepared for advanced mathematics coursework in middle school. NMPED must include the required description in its State plan.
<p>A.4.i.a: Major Racial and Ethnic Subgroups of Students</p>	<p>NMPED was not consistent in how it referred to subgroups throughout its State plan. For example, NMPED lists different subgroups on page 62 and page 75 of its State plan. Additionally, NMPED uses inconsistent terms when referring to specific subgroups (e.g., NMPED uses both the terms Asian and Asian/Pacific Islander). NMPED must clarify the list of each major racial and ethnic group the State includes as a subgroup of students and ensure they are consistently included throughout the plan.</p>
<p>A.4.ii.b: Statistical Soundness of N-Size</p>	<p>NMPED stated in its State plan that it would have no minimum number of students for accountability purposes, which is, in effect, a minimum number of students of one. NMPED did not describe how a minimum number of students of one is statistically sound. NMPED must describe how the minimum number of students it uses for accountability will result in statistically sound determinations for schools.</p>
<p>A.4.ii.d: Minimum N-Size and Ensuring Student Privacy</p>	<p>Because the State makes an accountability determination for any school or subgroup of students, even with one student, NMPED must justify how that minimum number of students it will use for accountability purposes protects the privacy of individual students.</p>
<p>A.4.ii.e: If Applicable, Minimum N-Size for Reporting</p>	<p>NMPED includes in its State plan a minimum number of students for purposes of reporting but is inconsistent in what the minimum number of students for purposes of reporting is. NMPED must</p>

	<p>clarify the minimum number of students for reporting (10 or 20).</p>
<p>A.4.iv: Indicators</p>	<p>NMPED must ensure that each indicator only includes measures consistent with ESEA section 1111(c)(4)(B). Specifically, NMPED must:</p> <ul style="list-style-type: none"> • For the Academic Achievement indicator required under ESEA section 1111(c)(4)(B)(i)(I), only include proficiency on the annual assessments required under ESEA subsection (b)(2)(B)(v)(I) (i.e., reading/language arts and mathematics); a State may include performance on assessments other than those required under ESEA subsection (b)(2)(B)(v)(I) or other academic indicators (e.g., STEM readiness) in the indicator for public elementary and secondary schools that are not high schools required under ESEA section 1111(c)(4)(B)(ii) (i.e., the Other Academic indicator) for elementary and secondary schools that are not high schools or in the School Quality or Student Success indicator for any schools, including high schools; • For the Academic Achievement indicator, if a State chooses to include student growth in that indicator, consistent with ESEA section 1111(c)(4)(B)(i)(II), only include student growth for high schools, as measured by the annual assessments required under ESEA subsection (b)(2)(B)(v)(I) (i.e., reading/language arts and mathematics); • For the indicator for public elementary and secondary schools that are not high schools required under ESEA section 1111(c)(4)(B)(ii) (i.e., the Other Academic indicator), only include measures for schools that are not high schools; • For the Graduation Rate indicator required under ESEA section 1111(c)(4)(B)(iii), only include measures based on State-designed long term goals for the four-year adjusted cohort graduation and, at the State’s discretion, the extended-year adjusted cohort graduation rate. Therefore, NMPED must revise the Graduation Rate indicator calculation to remove calculations for schools that do not graduate students (ninth grade academies) and the 4-year growth rate within the indicator. These measures may be included as School Quality or Student Success indicators or, for calculations for schools that do not graduate students, as the Other Academic indicator, or a component of that indicator, if desired.
<p>A.4.iv.a: Academic Achievement Indicator</p>	<ul style="list-style-type: none"> • NMPED must provide a comprehensive description of all the components within the Academic Achievement indicator that includes a description of the weighting of reading/language arts achievement relative to mathematics achievement. • NMPED has indicated in its State plan that it does not intend to calculate the Academic Achievement indicator consistent with ESEA section 1111(c)(4)(E)(ii). NMPED must clarify that, in addition to taking participation rate into consideration for purposes of determining a

	<p>school’s final letter grade, NMPED will calculate performance on the Academic Achievement indicator as required by ESEA section 1111(c)(4)(E)(ii).</p> <ul style="list-style-type: none"> • NMPED must provide additional information related to the School for the Deaf, School for the Blind and Visually Impaired, and the Juvenile Justice institutions, and any other schools which NMPED excludes from its accountability system, including whether these are public schools consistent with State law; if they receive Federal education funds under the ESEA or the Individuals with Disabilities Education Act; and a description of the role of the SEA with respect to the school.
<p>A.4.iv.b: Other Academic Indicator for Elementary and Secondary Schools that are Not High Schools</p>	<ul style="list-style-type: none"> • NMPED must describe how each measure included in its Other Academic indicator used in its statewide accountability system for public elementary and secondary schools that are not high schools: is calculated consistently across the State; allows for meaningful differentiation in school performance; is a valid and reliable statewide academic indicator; and can be disaggregated for each subgroup of students. The description provided in the State plan does not provide enough detail to determine if the statutory requirements were met. • Note: NMPED will need to submit an amendment for Department approval once it finalizes the STEM measure for elementary and secondary schools that are not high schools, including a demonstration that the measure is valid and reliable.
<p>A.4.iv.c: Graduation Rate Indicator</p>	<p>In its State plan, NMPED describes three graduation options for students with disabilities. NMPED must clarify the graduation options for students with disabilities and confirm that students who receive non-traditional diplomas (i.e., diplomas that do not meet the State’s definition of a “regular diploma”) are not included as graduates in the Graduation Rate indicator.</p>
<p>A.4.iv.d: Progress in Achieving English Language Proficiency Indicator</p>	<p>In its State plan, NMPED indicates that it is continuing to develop its Progress in Achieving English Language Proficiency indicator. NMPED must provide a description of the Progress in Achieving English Language Proficiency indicator it will use in its statewide accountability system for, by the beginning of the 2018-2019 school year, identification of schools , including that the SEA uses the same indicator across all LEAs in the State, that the indicator is aligned with the State-determined timeline described in the State’s progress in achieving English language proficiency long-term goal, and that the indicator is valid and reliable.</p>

<p>A.4.iv.e: School Quality or Student Success Indicator(s)</p>	<ul style="list-style-type: none"> • NMPED must clearly describe which components constitute one or more School Quality or Student Success indicator(s) (see previous requirement in A.4.iv). For each School Quality or Student Success indicator, and each measure within each such indicator, NMPED must describe the applicable grade spans; how it allows for meaningful differentiation in school performance; how it is valid, reliable, comparable, used statewide in all schools (within the applicable grade span), and calculated in a consistent way across the State; and how it can be disaggregated for each subgroup of students. The description provided in the State plan does not provide enough detail to determine if the statutory requirements were met. • Note: If the College and Career Readiness indicator is not finalized and will not be immediately incorporated into the State’s system as a School Quality or Student Success indicator, NMPED will need to submit an amendment for Department approval once it finalizes that indicator.
<p>A.4.v.b: Weighting of Indicators</p>	<ul style="list-style-type: none"> • In addition to revising the measures in each indicator as described in A.4.iv above, NMPED must clearly describe the weighting of each indicator in its system of annual meaningful differentiation, including how the weighting is adjusted for schools for which an indicator cannot be calculated. When describing the weighting of each indicator, NMPED must ensure that the Academic Achievement, Other Academic, and Graduation Rate indicators each receive substantial weight individually and, in the aggregate, much greater weight than the School Quality or Student Success indicator(s), in the aggregate.
<p>A.4.v.c: If Applicable, Different Methodology for Annual Meaningful Differentiation</p>	<p>A different methodology for annual meaningful differentiation is permitted only for schools for which an accountability determination cannot be made; it is not clear that the schools targeted for the Supplemental Accountability Measures (SAM) meet that requirement. NMPED must describe and clarify the State’s different methodology for annual meaningful differentiation, including a description of how the schools subject to the SAM cannot otherwise be included in the accountability system and how the methodology or methodologies will be used to identify schools for comprehensive or targeted support and improvement.</p>
<p>A.4.vi.e: Targeted Support and Improvement Schools— “Consistently Underperforming” Subgroups</p>	<p>In its State plan, it appears that the NMPED only uses academic proficiency in its methodology to identify schools with one or more “consistently underperforming” subgroups of students. NMPED must revise its methodology and describe in its plan how it considers all indicators in identifying schools with one or more “consistently underperforming” subgroups of students.</p>
<p>A.4.vi.f: Targeted Support and Improvement Schools— Additional Targeted Support</p>	<p>NMPED must more clearly describe its methodology to identify schools in which the performance of any subgroup of students, on its own, would lead to identification under ESEA section 1111(c)(4)(D)(i)(I) using the State’s methodology under ESEA section 1111(c)(4)(D)</p>

	<p>(<i>i.e.</i>, the methodology described in A.4.vi.a of the State’s plan), including clarifying that the methodology considers the performance of each subgroup of students and would lead to identification of a school based on the performance of any one or more of those subgroups, and whether the methodology identifies these schools from among all public schools in the State or from among only the schools identified as schools with one or more consistently underperforming subgroups. The description provided in the State plan does not provide enough detail to determine if the statutory requirements were met.</p>
<p>A.4.viii.a: Exit Criteria for Comprehensive Support and Improvement Schools</p>	<p>NMPED must provide exit criteria that ensure schools exiting Comprehensive Support and Improvement status demonstrate continued progress to improve student academic achievement and school success in the State. Specifically, NMPED’s proposed exit criteria permit a school to exit based on the decline in the performance of other schools, which does not ensure continued progress in improved student academic achievement and school success. NMPED must revise its exit criteria so that schools are not permitted to exit identification status based solely on a decline in performance in other schools.</p>
<p>A.4.viii.b: Exit Criteria for Schools Receiving Additional Targeted Support</p>	<p>NMPED did not provide enough information about this requirement. NMPED must describe its statewide exit criteria for schools receiving additional targeted support under ESEA section 1111(d)(2)(C), including the number of years over which schools are expected to meet such criteria, and including that its exit criteria ensure that schools that exit Additional Targeted Support status demonstrate continued progress to improve student academic achievement and school success in the State.</p>
<p>A.5: Disproportionate Rates of Access to Educators</p>	<ul style="list-style-type: none"> • Although NMPED describes disproportionate rates of access to educators for all schools, NMPED does not specifically address schools assisted under Title I, Part A. NMPED must describe how low-income children enrolled specifically in Title I, Part A schools are served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers. • Although NMPED describes disproportionate rates of access to educators for all schools, NMPED does not specifically address schools assisted under Title I, Part A. NMPED must describe how minority children enrolled specifically in Title I, Part A schools are served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.

A.6: School Conditions	NMPED must describe how the SEA will support LEAs receiving assistance under Title I, Part A to improve school conditions for student learning, including through reducing: (i) incidences of bullying and harassment; (ii) the overuse of discipline practices that remove students from the classroom; and (iii) the use of aversive behavioral interventions that compromise student health and safety.
Title I, Part C: Education of Migratory Children	
B.1: Supporting the Needs of Migratory Children	<ul style="list-style-type: none"> • NMPED’s description of the evaluation of its program must include: <ul style="list-style-type: none"> ○ How it includes an evaluation of the joint planning among local, State, and Federal programs. ○ How it evaluates the full range of services provided by the State and the integration of those service against measurable program objectives and outcomes. ○ How it will address the unique needs of preschool migratory children and migratory children who have dropped out of school.
Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk	
C.1: Transitions Between Correctional Facilities and Local Programs	While the State plan 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). NMPED must revise its State plan to include a plan for assisting in the transition of children and youth from locally operated programs to correctional facilities.
C.2: Program Objectives and Outcomes	The State plan includes objectives and outcomes established by the State that can be used to assess the effectiveness of the Title I, Part D program in improving the academic skills of children in the program. The State plan does not include objectives and outcomes established by the State that can be used to assess the effectiveness of the Title I, Part D program in improving the career and technical skills of children in the program. NMPED must revise its State plan to include objectives and outcomes established by the State that can be used to assess the effectiveness of the Title I, Part D program in improving the career and technical skills of children in the program.
Title II, Part A: Supporting Effective Instruction	
D.4: Improving Skills of Educators	In its State plan, NMPED describes how it will improve the skills of teachers, principals, or other school leaders in order to enable them to identify students with specific learning needs and provide instruction based on the needs of such students for English learner. However, NMPED

	<p>did not address all required subgroups. NMPED must describe how it will improve the skills of teachers, principals, or other school leaders in order to enable them to identify students with specific learning needs and provide instruction based on the needs of such students, specifically for: children with disabilities, students who are gifted and talented, and students with low literacy levels.</p>
D.5: Data and Consultation	<ul style="list-style-type: none"> NMPED generally describes the use of data and consultation that was conducted prior to submission of the State plan. However, NMPED must describe how it will use ongoing consultation, as described in ESEA section 2101(d)(3), to continually update and improve all activities supported under Title II, Part A. Additionally, NMPED must describe ongoing consultation for all required stakeholders consistent with ESEA section 2101(d)(3) which includes teachers, principals, other school leaders, paraprofessionals (including organizations representing such individuals), specialized instructional support personnel, charter school leaders (in a State that has charter schools), parents, community partners, and other organizations or partners with relevant and demonstrated expertise in programs and activities designed to meet the purpose of Title II.
Title III, Part A, Subpart 1: English Language Acquisition and Language Enhancement	
E.1: Entrance and Exit Procedures	<ul style="list-style-type: none"> NMPED must describe the timely and meaningful consultation with LEAs representing the geographic diversity of the State regarding standardized statewide entrance and exit procedures for English learners. NMPED must include an assurance that all students who may be English learners are assessed for such status within 30 days of enrollment in a school in the State.
E.2: SEA Support for English Learner Progress	<p>NMPED did not provide enough information about this requirement. NMPED must describe how it will assist eligible entities in meeting long-term goals for English language proficiency and describe its efforts with respect to assisting eligible entities ensure that English learners meet challenging State academic standards.</p>
E.3: Monitoring and Technical Assistance	<p>NMPED did not provide enough information about this requirement. NMPED must describe how it will monitor the progress of each eligible entity receiving a Title III, Part A subgrant in helping English learners achieve English language proficiency and the steps it will take to further assist eligible entities if the strategies funded under Title III, Part A are not effective, such as by providing technical assistance and support on how to modify such strategies.</p>
Title IV, Part A: Student Support and Academic Enrichment Grants	
F.1: Use of Funds	<ul style="list-style-type: none"> The State plan describes how the SEA will use funds received under Title IV, Part A, Subpart 1 for State-level activities in fiscal year (FY) 2018 (emphasis added). NMPED must clarify:

	<p>(1) if the FY 2018 state-level activities included in the plan are going to be supported with the state FY 2017 Title IV, Part A allotment; and (2) whether FY 2017 funds will support FY 2017 activities, and if not, why not. NMPED must revise the State plan to describe how the NMPED will use FY 2017 funds received under Title IV, Part A, Subpart 1 for State-level activities.</p> <ul style="list-style-type: none"> • In subpart E, Section 6 on page 123, referring to family engagement programs and initiatives, the State plan refers to programs and activities that are not funded by Title IV, Part A, but that are available to “enhance the use of Title IV state technical assistance funds.” However, it is not clear what is meant by “Title IV state technical assistance funds” or what use the State will make of these funds. NMPED must revise its State plan to clarify what is meant by “Title IV state technical assistance funds” and “enhancing” their use, and indicate how these funds will be used.
F.2: Awarding Subgrants	<ul style="list-style-type: none"> • The description in the State plan does not address the requirement that no allocation to an LEA may be made in an amount that is less than \$10,000. NMPED must revise its State plan to include how the NMPED will address the requirement that no allocation to an LEA may be made in an amount that is less than \$10,000. • Note: The Consolidated Appropriations Act, 2017 (Pub. L 115-31) provides States with a new option of awarding the Title IV, Part A subgrants to LEAs competitively. Please consider whether NMPED wishes to revise this response in light of this new flexibility.
Title V, Part B, Subpart 2: Rural and Low-Income School Program	
H.2: Technical Assistance	<p>NMPED must describe how it will provide technical assistance specifically to LEAs eligible for funds under the Rural and Low-Income School Program to help such agencies implement the activities described in ESEA section 5222. While NMPED provided a description about how it will provide technical assistance to LEAs generally, this description did not specifically address technical assistance for RLIS-eligible LEAs. In particular, the description must include information about how the SEA will provide technical assistance to RLIS-eligible LEAs (i.e., the methods and strategies). Additionally, the description must specifically address how the SEA’s technical assistance will assist RLIS-eligible LEAs’ implementation of RLIS activities.</p>
Education for Homeless Children and Youths Program, McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B	
I.2: Dispute Resolution	<p>While the State plan indicates that the NMPED will develop model dispute resolution policies and procedures that meet ESEA requirements regarding the educational placement of homeless children and youth, the plan does not describe the procedures themselves and therefore does not</p>

	provide enough information to assess whether these procedures would result in the prompt resolution of disputes. NMPED must revise the State plan to indicate that the model dispute resolution policies and procedures to be developed will provide for the prompt resolution of disputes, such as by establishing procedural timelines.
I.4.iii: Access to Services	The State plan indicates that there are procedures to ensure homeless children and youth do not face barriers to access to academic and extracurricular activities, including transportation services and coordination with the New Mexico Activities Association. More information is needed about these procedures, however, in order to determine if they ensure that homeless children and youth who meet relevant eligibility criteria do not face barriers to accessing magnet schools, career and technical education, online learning, and charter school programs if such programs are available at the State and local levels. NMPED must revise its State plan to clarify how the described procedures ensure that homeless children and youth who meet relevant eligibility criteria do not face barriers to accessing magnet schools, career and technical education, online learning, and charter school programs if such programs are available at the State and local levels.
I.5: Strategies to Address Other Problems	While the State plan provides a list of strategies to emphasize a variety of ways that NMPED and LEAs will address enrollment delays caused by requirements of immunization and other required health records; residency requirements; lack of birth certificates, school records, or other documentation; and guardianship issues, the plan does not describe strategies to address enrollment delays based on uniform or dress code requirements. NMPED must revise its State plan to describe strategies to address problems resulting from enrollment delays that are caused by uniform or dress code requirements.
General Education Provisions Act (GEPA)	
GEPA 427	NMPED must provide a description of the steps it will take to ensure equitable access to, and participation in, the programs included in its State plan for students, teachers and program beneficiaries with special needs consistent with the requirements in section 427 of the General Education Provisions Act.