



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 13, 2017

The Honorable Melody Schopp
Secretary of Education
South Dakota Department of Education
800 Governors Drive
Pierre, SD 57501-2291

Dear Secretary Schopp:

Thank you for submitting South Dakota'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 South Dakota'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 South Dakota's consolidated State plan and resubmit it through OMB Max by December 28, 2017. 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

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
www.ed.gov

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

submission date. 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 South Dakota 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 South Dakota'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 South Dakota indicated that any aspect of its plan may change or is still under development, South Dakota may include updated or additional information in its resubmission. South Dakota 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 Assistant
Secretary 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 South Dakota’s Consolidated State Plan

Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies (LEAs)	
A.3.i: Native Language Assessments Definition	The ESEA and its implementing regulations require that the South Dakota Department of Education (SD DOE) define “languages other than English present to a significant extent” in a manner that allows it to include at least the most populous language other than English spoken by the State’s participating student population. Based on the narrative and data provided by SD DOE, it is unclear how, or if, SD DOE includes the most populous language other than English in its definition.
A.4.iii.c.1: English Language Proficiency Long-term Goals	The ESEA requires SD DOE to identify and describe long-term goals and measurements of interim progress for English learners for increases in the percentage of such students making progress in achieving English language proficiency, as defined by the State and measured by the statewide English language proficiency assessment, within a State-determined timeline. In its State plan, SD DOE includes a baseline level of zero. Because SD DOE did not provide baseline data, it is unclear if SD DOE met the statutory requirements.
A.4.iv.a: Academic Achievement Indicator	<ul style="list-style-type: none"> • The ESEA requires that each indicator annually measure results for all students and separately for each subgroup of students. In its State plan, however, SD DOE proposes to measure performance on the Academic Achievement indicator using only the Gap and Non-gap subgroups. While it is permissible to include these subgroups in calculating the indicator, the ESEA requires that the indicator also be calculated for the “all students” group. Accordingly, it is unclear how SD DOE is meeting the requirement to calculate the Academic Achievement indicator for all students and separately for each subgroup of students. • SD DOE indicates that a school or subgroup with fewer than 40 students may not test up to two students and still be considered to have met the participation rate bar. ESEA section 1111(c)(4)(E)(ii) requires a State to calculate the Academic Achievement indicator by including in the denominator the greater of 95 percent of all students (or 95 percent of all students in a subgroup) or the number of students participating in the assessments. Because it is not clear how SD DOE is applying the rule described above, it is not clear that SD DOE is meeting the statutory requirements in ESEA section 1111(c)(4)(E)(ii) for all schools and subgroups that meet the State’s n size of 10.
A.4.iv.d: Progress in Achieving English Language Proficiency Indicator	In its State plan, SD DOE proposed awarding one point for taking the initial English language proficiency assessment. 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

	<p>English learners in achieving English language proficiency, as defined by the State and measured by the statewide English language proficiency assessment. Because SD DOE is awarding points in the indicator for students that take the assessment for the first time and, as a result, are not yet able to demonstrate progress, it is unclear if SD DOE meets the requirements. Additionally, awarding points to students that do not make progress toward proficiency does not meet the requirement that the indicator measure English learner progress in achieving English language proficiency.</p>
<p>A.4.iv.e: School Quality or Student Success Indicator(s)</p>	<p>SD DOE proposes a School Quality or Student Success indicator for high school that measures college and career readiness against the total number of graduates, rather than all students. The ESEA requires that each indicator annually measure results for all students and separately for each subgroup of students and that each School Quality or Student Success indicator allow for meaningful differentiation in school performance.</p>
<p>A.4.v.c: If Applicable, Different Methodology for Annual Meaningful Differentiation</p>	<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. SD DOE indicates that its schools serving special populations will be permitted to apply to the State for special school status based on the school’s mission. Because SD DOE does not describe the different methodology it will use for schools serving special populations, does not specify that this methodology will be limited to schools for which an accountability determination cannot otherwise be made, and does not describe how the methodology will be used to identify schools for comprehensive and targeted support and improvement, it is unclear whether SD DOE meets the statutory requirements.</p>
<p>A.4.vi.e: Targeted Support and Improvement Schools— “Consistently Underperforming” Subgroups</p>	<p>The ESEA requires SD DOE to describe in its State plan its methodology for identifying schools with one or more consistently underperforming subgroups, as determined by the State, if any. It is unclear how SD DOE averages data and, as part of the State methodology, how the use of data averaging and the use of a 95 percent confidence interval by subgroup would impact the identification of consistently underperforming subgroups. Further, it is unclear whether SD DOE’s methodology would result in the annual identification of all schools with one or more “consistently underperforming” subgroups of students and if Gap group student performance includes student performance on all indicators.</p>
<p>A.4.vi.f: Targeted Support and Improvement Schools— Additional Targeted Support</p>	<ul style="list-style-type: none"> • In its State plan, SD DOE proposes to first identify schools for additional targeted support and improvement for the 2019–2020 school year. However, consistent with the Secretary’s April 2017 Dear Colleague letter that provided additional flexibility, a State must identify schools for additional targeted support and improvement by the beginning of the 2018–2019 school year.

	<ul style="list-style-type: none"> • The ESEA requires that SD DOE describe its methodology for identifying schools in which 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). While SD DOE includes a description of its methodology, it states that it will identify schools that perform “no better on any indicator than the performance by schools designated for Comprehensive Support in that academic year over a period of three years.” Because it is unclear that SD DOE’s methodology results in the identification of all schools in which 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), it is unclear whether SD DOE meets the statutory requirement.
<p>A.5: Disproportionate Rates of Access to Educators</p>	<p>Although SD DOE in its State plan provides definitions for ineffective, out-of-field, and inexperienced teachers and describes its longitudinal data system, it does not describe how low-income and minority students in schools assisted under Title I, Part A are served by such teachers. The ESEA requires SD DOE to describe how low-income and minority children enrolled in schools assisted under Title I, Part A are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and the measures the SEA will use to evaluate and publicly report the progress of the SEA with respect to such description.</p>
<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"> • SD DOE 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 out of school. • SD DOE describes how, in planning, implementing, and evaluating the Migrant Education Program (MEP), it will address the unique educational needs of migratory children, including preschool migratory children, through the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs. However, the ESEA requires that a State also describe how, in planning, implementing, and evaluating the MEP, it will address the unique educational needs of migratory children who have dropped out of school through the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs. • SD DOE describes how, in evaluating the MEP, it will address the identified unique educational needs of migratory children, through joint planning among local, State, and Federal educational programs serving migratory children, including language instructional

	<p>educational programs under Title III, Part A. However, the ESEA requires that a State also describe how, in planning and implementing the MEP, it will address the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, through joint planning among local, State, and Federal educational programs serving migratory children, including language instructional educational programs under Title III, Part A.</p> <ul style="list-style-type: none"> • SD DOE describes how, in implementing and evaluating the MEP, it will address the unique educational needs of migratory children, including preschool migratory children, through the integration of services available under Title I, Part C with services provided by local, State, and Federal educational programs serving migratory children. However, the ESEA requires that a State also describe how, in planning the MEP, it will address the unique educational needs of migratory children, including migratory children who have dropped out of school, through such integration of services. • The ESEA requires that a State describe how, in planning, implementing, and evaluating the MEP, it will address the unique educational needs of migratory children, including preschool migratory children and migratory children who have dropped out of school, through measurable program objectives and outcomes. SD DOE did not provide any information addressing this requirement.
<p>Title II, Part A: Supporting Effective Instruction</p>	
<p>D.4: Improving the Skills of Educators</p>	<p>In its State plan, SD DOE provides detailed descriptions of its use of data in a Multi-tiered System of Supports to identify students with specific learning needs. However, SD DOE does not specifically address all required subgroups of students for this requirement. The ESEA requires SD DOE to describe how they 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, English learners, students who are gifted and talented, and students with low literacy levels.</p>
<p>Title IV, Part B: 21st Century Community Learning Centers</p>	
<p>G.2: Awarding Subgrants</p>	<p>While SD DOE indicates that it will use a rigorous peer review process, SD DOE does not describe the procedures and criteria it will use to ensure that community learning centers will help participating students meet challenging State and local academic standards. The ESEA requires that each State describe: (1) how it will ensure that proposed community learning centers will target their activities to students’ academic needs; and (2) how SD will implement a rigorous peer review process.</p>

Education for Homeless Children and Youths Program, McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B	
I.2: Dispute Resolution	<p>In its State plan, SD DOE describes procedures for the resolution of disputes regarding the educational placement of homeless children and youth. SD DOE 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>
I.4: Access to Services	<ul style="list-style-type: none"> • In its State plan, SD DOE does not include any SEA procedures that ensure that <i>youth separated from public schools</i> are identified and accorded equal access to appropriate secondary education and support services, including removing barriers that prevent them from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies. The McKinney-Vento Act requires a State to describe procedures that ensure that homeless youth and youth separated from public schools are accorded equal access to appropriate secondary education and support services, including by identifying and removing barriers that prevent them from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with State, local, and school policies. (<i>Requirement I.4.ii</i>) • In its State plan, SD DOE states that there will be a review and investigation into developing policies to expedite the full participation of homeless students in extracurricular programs, and describes procedures ensuring access to career and technical education programs. SD DOE does not, however, describe existing procedures to ensure that homeless children and youth who meet the relevant eligibility criteria do not face barriers to activities including magnet school, summer school, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels. The McKinney-Vento Act requires the State to describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels. (<i>Requirement I.4.iii</i>)
I.5: Strategies to Address Other Problems	<p>While SD DOE provides strategies to address problems resulting from enrollment delays caused by (ii) residency requirements; (iv) guardianship issues; or (v) uniform or dress code requirements, SD DOE does not provide strategies to address problems resulting from enrollment delays that are caused by—(i) requirements of other required health records; and (iii) lack of birth</p>

	certificates. The McKinney-Vento Act requires a State to provide strategies to address problems resulting from enrollment delays that are caused by—(i) requirements of other required health records; and (iii) lack of birth certificates.
I.6: Policies to Remove Barriers	While SD DOE indicates in its State plan that training and guidance related to the enrollment and retention barriers to homeless children and youth are and provided to LEAs, SD DOE does not demonstrate that the SEA and LEAs have developed policies that they will review and revise to address specific to barriers to identification, enrollment, and retention of homeless children and youth. The McKinney-Vento Act requires the State to demonstrate that the SEA and LEAs in the State have developed, and shall review and revise, policies to remove barriers to the identification, enrollment, and retention of homeless children and youth in the State, including barriers to enrollment and retention due to outstanding fees or fines, or absences.
General Education Provisions Act (GEPA)	
GEPA 427	Section 427 of the General Education Provisions Act requires a State to 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, and this is not addressed in SD DOE’s plan.