



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 14, 2017

The Honorable Sydnee Dickson
Superintendent of Public Instruction
Utah State Office of Education
250 East 500 South
Salt Lake City, UT 84114-4200

Dear Superintendent Dickson:

Thank you for submitting Utah'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 Utah'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 Utah's consolidated State plan and resubmit it through OMB Max by December 29, 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 submission date.

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.

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 Utah 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 Utah’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 Utah indicated that any aspect of its plan may change or is still under development, Utah may include updated or additional information in its resubmission. Utah 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 Utah’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>In its State plan, the Utah State Board of Education (USBE) indicates that it will use the eighth-grade mathematics exception. The ESEA limits that exception only to those States that administer an end-of-course test as its high school mathematics assessment used to meet the requirement in ESEA section 1111(b)(2)(B)(v)(I)(bb) and only for eighth grade students who take that assessment. USBE indicates in its State plan that it will use the ACT, rather than end-of-course assessments; USBE is not eligible for the eighth-grade math exception. In the event that USBE is using an end-of-course test as its high school mathematics assessment, in describing its strategies for affording all students the opportunity to take advanced mathematics in eighth-grade, USBE raises the possibility that students below eighth grade might also access advanced mathematics coursework; while permissible, the ESEA requires that such students take the assessment for the grade in which they are enrolled.</p>
<p>A.4.iii.a.1: Academic Achievement Long-term goals</p>	<p>USBE proposes to establish long-term goals and measurements of interim progress for high school academic achievement that combine mathematics and reading/language arts based on performance on the ACT composite score. 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 required under ESEA section 1111(b)(2)(B)(v)(I), 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 USBE has not provided long-term goals for both reading/language arts and mathematics assessments, it is not clear whether USBE is meeting the requirement.</p>
<p>A.4.iii.c.1: English Language Proficiency Long-term Goals</p>	<p>The ESEA requires a State to identify and describe an ambitious long-term goal for English learners for increases in the percentage of such students making progress in achieving English language proficiency within a State-determined timeline. USBE provides long-term goals for increases in the percentage of English learners making progress in achieving English language proficiency separately for elementary/middle schools and high schools, but does not provide its State-determined timeline for English learners to attain English language proficiency. Accordingly, it is unclear whether the State meets the statutory requirements.</p>

<p>A.4.iv.a: Academic Achievement Indicator</p>	<ul style="list-style-type: none"> • ESEA section 1111(c)(4)(B)(i)(I) requires that the Academic Achievement indicator must annually measure, for all students and separately for each subgroup of students, academic achievement, as measured by proficiency on the annual assessments required under ESEA section 1111(b)(2)(B)(v)(I) (i.e., reading/language arts and mathematics) and for each public high school in the State, at the State’s discretion, student growth. USBE indicates that it will use measures of growth and proficiency for high schools in the Academic Achievement indicator, which is permissible. However, because USBE does not describe how it determines adequate growth percentiles (AGPs) or student growth percentiles (SGPs) or how it will combine AGPs, SGPs, and proficiency to calculate the Academic Achievement indicator, it is unclear whether USBE meets the statutory requirement. • USBE includes both the ACT and an assessment for 9th- and 10th-grade students in its Academic Achievement indicator. Because it is unclear which assessments USBE uses as its high school assessments for purposes of the requirement in ESEA section 1111(b)(2)(B)(v)(I), it is unclear whether USBE meets the requirement that the Academic Achievement indicator be based on performance on the State’s ESEA assessments. • In its State plan, USBE indicates that it will factor the requirement for 95 percent student participation in statewide assessments into the accountability system by publishing the school’s participation rate on a school’s report card. Although a State is required to report participation rate, the ESEA also requires that, for the purpose of measuring, calculating, and reporting on the Academic Achievement indicator (ESEA section 1111(c)(4)(B)(i)), an SEA must include in the denominator the greater of the number of students participating in the assessments or the number equal to 95 percent of all students. Additionally, it is unclear whether USBE includes in the denominator students whose parents opt them out of the State assessment, based on provisions prescribed in Utah state law. As a result, it is not clear whether USBE is meeting the statutory requirements for calculating the Academic Achievement indicator.
<p>A.4.iv.b: Other Academic Indicator for Elementary and Secondary Schools that are Not High Schools</p>	<p>The ESEA requires a State to describe an indicator for elementary and secondary schools that are not high schools (i.e., the Other Academic indicator) that annually measures the performance of all students and separately for each subgroup of students. In its State plan, USBE indicates that it will include AGPs and SGPs and describes how each growth model will be calculated. However, USBE does not describe how the two growth models will be combined within the indicator. Accordingly, USBE has not fully described this indicator.</p>
<p>A.4.iv.c: Graduation Rate</p>	<ul style="list-style-type: none"> • ESEA section 1111(c)(4)(B)(iii) requires a State to include in its accountability system a

<p>Indicator</p>	<p>graduation rate indicator for all public high schools in the State. Although USBE describes a Graduation Rate indicator in one section of its plan, in other sections, it indicates that the Graduation Rate indicator is included solely as one measure within the Postsecondary Readiness School Quality or Student Success indicator, one of the State’s school quality or student success indicators. As a result, it is unclear whether the State meets the statutory requirement to have a separate Graduation Rate indicator within its accountability system.</p> <ul style="list-style-type: none"> • The ESEA also requires a State to describe its Graduation Rate indicator in its State plan. USBE indicates that “up to” ten percent of the points awarded to a school for the Graduation Rate indicator “may be” based on the school’s five-year adjusted cohort graduation rate but does not describe how the five-year rate will be combined with the four-year adjusted cohort graduation rate in instances in which it does not make up 10 percent of the points for the indicator. Accordingly, it is unclear whether USBE meets the statutory requirements.
<p>A.4.iv.e: School Quality or Student Success Indicator(s)</p>	<ul style="list-style-type: none"> • USBE states in its plan that, “[i]n addition to the school quality indicator described here, State law also provides schools the opportunity to select other indicators local communities value to highlight on the school’s report card.” The ESEA requires that a State describe a School Quality or Student Success indicator that is measured statewide and comparable for the grade spans to which the indicator applies and that allows for meaningful differentiation in school performance. Because it is unclear whether the other indicators that may be selected by local communities may be included in accountability determinations, as opposed to simply being reported, it is unclear whether the State meets these requirements. • USBE proposes to use a separate indicator, called the Equitable Educational Opportunity indicator, which will include only the lowest-performing 25 percent of students. The ESEA requires that each indicator annually measure results for all students and separately for each subgroup of students. Accordingly, because this indicator does not include all students, USBE has not met this requirement. • The ESEA requires that a State describe a School Quality or Student Success indicator that is measured statewide and is comparable for the grade spans to which the indicator applies and that allows for meaningful differentiation in school performance. USBE proposes Science Achievement and Growth and Postsecondary Readiness indicators, but does not clearly describe how points are awarded for each of these indicators, including, for example, how science achievement and growth are combined within the indicator. USBE has not fully described its School Quality or Student Success indicators.
<p>A.4.v.a: State’s System of Annual</p>	<p>The ESEA requires a State to establish and describe in its State plan its system of annual</p>

<p>Meaningful Differentiation</p>	<p>meaningful differentiation, including a description of how the system is based on all indicators, for all students and all subgroups of students. In its State plan, USBE proposes to use an A-F system to meaningfully differentiate among schools and indicates that it has established a criterion-based approach, establishing cut scores for each letter grade. However, USBE does not describe its criterion-based approach. Accordingly, USBE has not fully described its system of annual meaningful differentiation.</p>
<p>A.4.v.b: Weighting of Indicators</p>	<p>The ESEA requires an SEA to describe the weighting of each indicator in its system of annual meaningful differentiation, including:</p> <ul style="list-style-type: none"> ○ How the Academic Achievement, Other Academic, Graduation Rate, and Progress in Achieving English Language Proficiency indicators each receive substantial weight individually; and ○ How the Academic Achievement, Other Academic, Graduation Rate, and Progress in Achieving English Language Proficiency indicators receive, in the aggregate, much greater weight than the School Quality or Student Success indicator(s), in the aggregate. <p>In the discussion of indicator weighting for high school, USBE includes Graduation Rate in the Postsecondary Readiness indicator, a School Quality of Student Success indicator, which accounts for 33% of the system of annual meaningful differentiation. Therefore, it is unclear if the academic indicators receive much greater weight, in the aggregate, than the School Quality or Student Success indicators, in the aggregate.</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. USBE states it will use different indicators and weightings for schools that are classified as alternative schools or schools that primarily serve children with disabilities but does not specify that its different methodology is limited to schools for which an accountability determination cannot be made. In addition, USBE does not describe the methodology nor how it will be used to identify such schools for comprehensive or targeted support and improvement. Accordingly, it appears that USBE does not meet the statutory requirements.</p>
<p>A.4.vi.a Comprehensive Support and Improvement Schools— Lowest Performing</p>	<ul style="list-style-type: none"> ● The ESEA requires a State to describe a methodology for identifying not less than the lowest-performing five percent of Title I schools for comprehensive support and improvement that considers performance on all indicators. USBE’s State plan indicates that it will annually identify the lowest-performing three percent of schools that receive the lowest grade in the State A-F system for two consecutive years, regardless of whether the school is a Title I school. Because USBE indicates it will identify the lowest-performing three percent of

	<p>schools and because it requires a school to meet the definition for two consecutive years before it is identified, it is unclear whether USBE meets this statutory requirement.</p> <ul style="list-style-type: none"> • The ESEA requires a State to describe a methodology for identifying not less than the lowest-performing five percent of Title I schools for comprehensive support and improvement. Because USBE does not indicate that it will first identify schools for comprehensive support and improvement by the beginning of the 2018-2019 school year, it is unclear whether USBE meets the requirement, consistent with the Department’s April 2017 Dear Colleague letter that provided additional flexibility, for a State to identify such schools by the beginning of the 2018-2019 school year.
<p>A.4.vi.b: Comprehensive Support and Improvement Schools—Low Graduation Rates</p>	<ul style="list-style-type: none"> • The ESEA requires a State to describe a methodology for identifying all public high schools in the State failing to graduate one third or more of their students for comprehensive support and improvement. In its State plan, USBE indicates that a school must have a four-year adjusted cohort graduation rate of less than or equal to 67 percent for two consecutive school years, every two years. Because USBE is requiring a school to meet the statutory definition for two consecutive years, it does not appear that USBE meets the statutory requirement. • The ESEA requires a State to describe a methodology for identifying all public high schools in the State failing to graduate one third or more of their students for comprehensive support and improvement. Because USBE does not indicate that it will first identify schools for comprehensive support and improvement by the beginning of the 2018-2019 school year, it is unclear whether USBE meets the requirement, consistent with the Department’s April 2017 Dear Colleague letter that provided additional flexibility, for a State to identify such schools by the beginning of the 2018-2019 school year.
<p>A.4.vi.d: Frequency of Identification</p>	<p>USBE is inconsistent in its State plan with respect to the frequency of identification of schools that were previously identified for additional targeted support and fail to meet the State’s exit criteria within four years, at one point stating that the schools will be identified annually (p. 38) and, at another point, that the schools will be identified every three years (p. 39). The ESEA requires a State to indicate the frequency with which it will identify each of the three types of schools for comprehensive support and improvement, consistent with ESEA section 1111(c)(4)(D)(i), which requires a State to identify these schools at least once every three years.</p>
<p>A.5: Disproportionate Rates of Access to Educators</p>	<p>Although USBE provides information and a description of certain disproportionate rates of access to educators for all schools, USBE does not specifically address ineffective teachers, low-income children and minority children. The ESEA requires a State to describe the extent, if any, that low-income children enrolled in schools assisted under Title I, Part A are served at disproportionate</p>

	<p>rates by ineffective, out-of-field, or inexperienced teachers. Additionally, in its State plan, USBE indicates that information about disproportionate rates of access to educators will be published in an annual stakeholders report. However, it is unclear whether USBE meets the statutory requirement to publicly report. The ESEA requires that a State describe the measure(s) 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.</p>
<p>Title I, Part C: Education of Migratory Children</p>	
<p>B.1: Supporting Needs of Migratory Children</p>	<p>USBE describes how, in planning, implementing, and evaluating the Migrant Education Program, it will address the unique educational needs of migratory children through measurable program objectives and outcomes. However, the ESEA requires a State to also describe how it will address the unique educational needs of preschool migratory children and migratory children who have dropped out of school, through measurable program objectives and outcomes.</p>
<p>Title II, Part A: Supporting Effective Instruction</p>	
<p>D.5: Data and Consultation</p>	<p>In its State plan, USBE describes its plans to ensure ongoing consultation around Title II strategies generally. However, USBE does not describe the stakeholders involved in the consultation. The ESEA requires a State to 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.</p>
<p>Title IV, Part A: Student Support and Academic Enrichment Grants</p>	
<p>F.2: Awarding Subgrants</p>	<p>In its State plan, USBE is not clear on whether awards to LEAs will be made on a formula and/or competitive basis. The SEA must clarify whether it will award funds to LEAs on a formula or competitive basis or both and how it will ensure that awards made to LEAs are consistent with ESEA section 4105(a)(2) and/or with the requirements of the Consolidated Appropriations Act, 2017, accordingly.</p>
<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, USBE describes procedures for the resolution of disputes regarding educational placement. The plan 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, USBE 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. It is not clear, however, if these activities will heighten the awareness of such school personnel of the specific needs of runaway and homeless 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.4: Access to Services</p>	<ul style="list-style-type: none"> • In its State plan, USBE does not include any 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. 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.4ii)</i> • In its State plan, USBE indicates LEAs must be in compliance with Federal civil rights laws as recipients of Federal financial assistance and as public entities. The plan does not, however, describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria do not face barriers to activities such as magnet school, summer school, career and technical education, 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, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State and local levels. <i>(Requirement I.4iii)</i>
<p>I.6: Policies to Remove Barriers</p>	<p>In its State plan, USBE demonstrates that policies to remove barriers to the identification of homeless children and youth, and policies related to the enrollment and retention barriers for</p>

	<p>homeless children and youth, are developed, reviewed, and revised with LEAs. The plan does not, however, 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, including barriers to enrollment and retention due to outstanding fees or fines, or absences.</p>
<p>General Education Provisions Act (GEPA)</p>	
<p>GEPA 427</p>	<p>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. This was not included in USBE’s plan.</p>