



## UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 18, 2017

The Honorable Steven Paine  
Superintendent of Schools  
West Virginia Department of Education  
1900 Kanawha Boulevard East  
Charleston, West Virginia 25305

Dear Superintendent Paine:

Thank you for submitting West Virginia'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 West Virginia'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 West Virginia's consolidated State plan and resubmit it through OMB Max by January 3, 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

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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 West Virginia 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 West Virginia'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 West Virginia indicated that any aspect of its plan may change or is still under development, West Virginia may include updated or additional information in its resubmission. West Virginia 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 West Virginia’s Consolidated State Plan**

<b>Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies (LEAs)</b>	
A.3.i: Native Language Assessments Definition	<p>Although the West Virginia Department of Education (WVDE) defines “languages other than English that are present to a significant extent in the participating student population” as those that represent at least 50 percent of the total English learner population in the State, the definition does not include at least the most populous language other than English. The ESEA and its implementing regulations require that the State provide this definition and identify the languages meeting the definition, including at least the most populous language other than English spoken by the State’s participating student population. After revising its definition, additional State plan revisions will be necessary in response to the revised consolidated State plan requirements in A.3.iii-iv in accordance with that definition.</p>
A.4.iii.a.1: Academic Achievement Long-term Goals	<p>In its State plan, WVDE has set long-term goals and measurements of interim progress for Academic Achievement based on percent of possible performance points earned based on Lexile and Quantile scales rather than the percent of students attaining grade-level proficiency. 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. No information is provided about how the Lexile and Quantile scales are established. While WVDE does provide tables that appear to link the Lexile and Quantile scores to the State’s proficiency scores, Lexile and Quantile scores are fundamentally different from the proficiency levels established by the State’s achievement standards and do not measure content attainment, as required for the attainment of proficiency on the State’s achievement standards. Because WVDE has not explained the clear relationship of Lexile and Quantile scales to the State’s academic achievement standards, which are used to measure proficiency, it does not appear that WVDE’s long-term goals constitute goals that are measured by grade-level proficiency on the State’s annual assessments in reading/language arts and mathematics.</p>
A.4.iii.c.1: English Language Proficiency Long-term Goals	<ul style="list-style-type: none"> <li>• The ESEA requires a State 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. WVDE’s long-term goal for English learners is based on the percentage of students achieving English language proficiency within six years, not the percentage of students making progress</li> </ul>

	<p>in achieving, English language proficiency. As a result, it is unclear whether WVDE meets the statutory requirement.</p> <ul style="list-style-type: none"> <li>• In addition, the ESEA requires a State to identify and describe long-term goals and measurements of interim progress for all English learners, not just students receiving services. WVDE’s long-term goals and measurements of interim progress appear to be established only for English learners who are receiving services.</li> </ul>
<p>A.4.iv.a: Academic Achievement Indicator</p>	<ul style="list-style-type: none"> <li>• In its State plan, WVDE proposes including results on its English language proficiency assessment, ELPA21, in the Academic Achievement indicator. For the Academic Achievement indicator required under ESEA section 1111(c)(4)(B)(i)(I), a State may include only proficiency on the annual assessments required under ESEA section 1111(b)(2)(B)(v)(I) (i.e., content assessments in reading/language arts and mathematics).</li> <li>• WVDE proposes to base its Academic Achievement indicator in part on student performance on statewide reading/language arts and mathematics assessments as measured by Lexile and Quantile scales. The ESEA requires a State to measure and describe in its State plan an Academic Achievement indicator that is based on grade-level proficiency on statewide assessments in reading/language arts and mathematics. Lexile and Quantile scores are different from the State’s achievement standards and are not a measure of a student’s proficiency toward the State’s academic content standards, as required by the ESEA for this indicator. As a result, it does not appear that WVDE meets the statutory requirements.</li> <li>• 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. Although WVDE provides business rules for the calculation of the Academic Achievement indicator, it is not clear that these rules meet statutory requirements because clarification is needed on the number of points assigned to non-participants (if the school assesses fewer than 95 percent of the enrolled population) and on the number of students that will be included in the denominator.</li> </ul>
<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"> <li>• In its State plan, WVDE includes within the Other Academic indicator two measures – On Track to Graduation and Post-Secondary Achievement – for high schools. However, the indicator required under ESEA section 1111(c)(4)(B)(ii) must be limited to elementary and secondary schools that are not high schools. A State, at its discretion, may include measures of being on track to graduation and post-secondary achievement as School Quality or Student Success indicators. Regarding the On Track to Graduation indicator, WVDE indicates that it</li> </ul>

	<p>will calculate this indicator using, as the denominator, the total number of students in grades 9 and 10 meeting certain criteria, rather than all students in grades 9 and 10 (“divide by the total number of students represented in steps 1 through 4,” p. 26). If it chooses to include this measure as a School Quality or Student Success indicator, 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> <ul style="list-style-type: none"> <li>• 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 is a valid and reliable statewide indicator that allows for meaningful differentiation in school performance. Since WVDE proposes to base this indicator on the results of LEA-selected benchmark assessments – which could vary across the State – this indicator is not statewide or comparable across all districts in the State and may not allow for meaningful differentiation in school performance.</li> </ul>
<p>A.4.iv.c: Graduation Rate Indicator</p>	<p>In its State plan, WVDE indicates that it will use both the 4-year and 5-year adjusted cohort graduation rates within its Graduation Rate indicator. However, the State does not explain how these rates will be combined within the indicator or how the indicator is calculated. The ESEA requires a State to describe how it calculates the Graduation Rate indicator and, if it includes one or more extended-year adjusted cohort graduation rates, describe how the four-year adjusted cohort graduation rate is combined with that rate or rates within the indicator.</p>
<p>A.4.iv.d: Progress in Achieving English Language Proficiency Indicator</p>	<p>WVDE notes that “if considered as a separate accountability indicator few schools in the state will have sufficient numbers to meet the minimum N size of 20. No performance cuts are proposed for ELP [English language proficiency] at this time because we propose to incorporate EL student performance on ELPA21 into the academic indicator for English/language arts to ensure their representation in the accountability system, and for long-term goals for ELP to be validated after multiple years of ELPA21 administration.” As a result, it is not clear whether a separate ELP indicator will be used in its statewide accountability system. As noted above, it is not permissible to include results on the ELPA21 English language proficiency assessment within the Academic Achievement indicator. Moreover, the ELP indicator must be based on progress towards English language proficiency, not on proficiency numbers alone. The ESEA requires a State to describe the Progress in Achieving English Language Proficiency indicator, including the State’s definition of English language proficiency, as measured by the State English language proficiency assessment.</p>
<p>A.4.v.a: State’s System of Annual</p>	<p>Although WVDE has described the system of annual meaningful differentiation of all public</p>

<p>Meaningful Differentiation</p>	<p>schools in the State, as noted above, it does not appear that the State includes all indicators, including the Progress in Achieving English Language Proficiency indicator, in its system of annual meaningful differentiation.</p>
<p>A.4.v.b: Weighting of Indicators</p>	<ul style="list-style-type: none"> <li>• The ESEA requires a State to describe the weighting of each indicator in the State’s system of annual meaningful differentiation. Because WVDE does not describe how it will adjust the weighting for schools for which an indicator cannot be calculated due to the minimum number of students, it is unclear whether WVDE meets the statutory requirements.</li> <li>• The ESEA requires that the Academic Achievement, Other Academic, Graduation Rate, and Progress in Achieving English Language Proficiency 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. In its State plan, WVDE provides the weights for each indicator. However, it is unclear how these weights are used to inform annual meaningful differentiation and identification of schools. When discussing identification of schools, WVDE describes a system of annual meaningful differentiation in which any one indicator can wholly impact school identification (i.e., a high rating on any single indicator could prevent a school from being identified for comprehensive or targeted support or improvement). In such a system, it appears that the School Quality or Student Success indicator(s), in the aggregate, could greatly outweigh all of the other indicators, in the aggregate. As such, it is unclear whether WVDE meets the statutory requirements. In addition, because it is not clear whether WVDE includes Progress in Achieving English Language Proficiency as a separate indicator, it is unclear whether WVDE meets the weighting requirements for that indicator, in particular.</li> </ul>
<p><b>Title II, Part A: Supporting Effective Instruction</b></p>	
<p>D.5: Data and Consultation</p>	<p>Although WVDE describes its efforts to consult with stakeholders on its Professional Development plan, this description does not include all required stakeholder groups. As described in ESEA section 2101(d)(3), a State must consult with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders, parents, and community partners.</p>
<p><b>Title III, Part A, Subpart 1: English Language Acquisition and Language Enhancement</b></p>	
<p>E.1: Entrance and Exit Procedures</p>	<p>The State does not assure that students who may be English learners are assessed for such status within 30 days of enrollment in a school. The ESEA requires a State to describe how they will establish and implement, with timely and meaningful consultation with LEAs representing the geographic diversity of the State, standardized, statewide entrance and exit procedures, including</p>

	<p>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.</p>
<p><b>Education for Homeless Children and Youths Program, McKinney-Vento Homeless Assistance Act, Title VII, Subtitle B</b></p>	
<p>I.4: Access to Services</p>	<ul style="list-style-type: none"> <li>• In its State plan, WVDE describes procedures that ensure that homeless youth are identified and accorded equal access to appropriate secondary education and support services. However, it is not clear from the WVDE State plan if youth separated from public school are included in the procedures described to ensure that they are identified and accorded equal access to appropriate secondary education and support services. The McKinney-Vento Act requires a State to describe procedures that ensure that youth separated from public schools are afforded 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. <i>(Requirement I.4ii)</i></li> <li>• In its State plan, WVDE indicates that LEAs are required to budget a homeless set-aside amount to fund goods and services identified as necessary to remove barriers to homeless children and youth accessing academic and extracurricular activities. WVDE does not, however, describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria do not face barriers to accessing activities such as magnet schools, 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 schools, summer school, career and technical education, advanced placement, and charter school programs, if such programs are available at the State and local levels. <i>(Requirement I.4iii)</i></li> </ul>
<p>I.5: Strategies to Address Other Problems</p>	<p>While WVDE provides strategies to address problems resulting from enrollment delays that are caused by—(i) requirements of immunization and other required health records; (iii) lack of birth certificates, school records, or other documentation; (iv) guardianship issues; and (v) uniform or dress code requirements, WVDE does not provide strategies to address problems resulting from enrollment delays that are caused by (ii) residency requirements. The McKinney-Vento Act requires a State to provide strategies to address problems resulting from enrollment delays that are caused by (ii) residency requirements.</p>
<p>I.6: Policies to Remove Barriers</p>	<p>In its State plan, WVDE indicates that policies related to enrollment barriers for homeless</p>

	children and youth are developed, reviewed, and revised with LEAs. WVDE does not, however, demonstrate that the SEA and LEAs have developed and shall review and revise policies to remove barriers to the identification and retention of homeless children and youth, including barriers to retention due to absences. 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 identification and retention of homeless children and youth in the State, including barriers to retention due to absences.
<b>General Education Provisions Act (GEPA)</b>	
GEPA 427	Section 427 of the General Education Provisions Act requires a State to provide a description of the steps in 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 is not addressed in WVDE's plan.