



April 26, 2017

The Honorable Betsy DeVos
Secretary
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Dear Secretary DeVos,

On behalf of The Leadership Conference on Civil and Human Rights and the 24 organizations listed below, we urge you to ensure that children receive the support and attention they deserve through the implementation of the Every Student Succeeds Act (ESSA). As states are submitting their plans to the department for review and approval, it is critical that these plans meet the letter and intent of the law and, as is its purpose, that they “provide all children significant opportunity to receive a fair, equitable, and high-quality education, and close educational achievement gaps.” The department’s responsibility to students and taxpayers requires a thorough and robust review of submitted plans – not simply a rubber stamp of state submissions.

A state’s ESSA plan is a declaration of its commitment to the education of all children. This plan should set meaningful, aggressive, and achievable goals for ensuring children are prepared for future success and explain how the state will hold schools and districts responsible for educating *all* students. Parents and communities send children to school every day with the expectation that that school is doing its job and preparing their children for future success. They have the right to know that their state is committed to their children’s education and has a plan for what to do when a school is not educating well and needs help. It is time for every state to get serious about their children’s future success. The ESSA state plan is one way for states to do just that, by creating a plan that explains how they are going to identify schools and districts that are not doing well and what the state will do to help them improve.

A state’s plan for ensuring all schools and districts are educating children well is only as good as the goals it sets for schools to improve, the degree to which goals drive the accountability system, and the plans the state makes to ensure schools are helping children reach their fullest potential. Making sure that all children have a high-quality education that prepares them for the future is a responsibility that we all share—parents, grandparents, teachers, neighbors, and state officials—but too many states have let schools and districts off the hook for their vital roles in ensuring all children can succeed.

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Every child, no matter their unique challenges, their unique needs, or where they come from, should have the opportunity to grow up to be what they dream. The chances a child has to pursue their dreams should not depend on their zip code or their background. *ESSA plans that allow schools to shirk their responsibility to all children, especially groups of children who have been shortchanged for too long, fail to meet the intent of the law and should be rejected.*

Having reviewed draft plans from several states, we are concerned about many elements included in or missing from those plans. Prior to approval, state ESSA plans must contain the following elements:

State plans must demonstrate that schools will be held accountable for disaggregated student achievement. Data about African American students, Latino students, Asian American students, Native students, White students, low-income students, English learners, and students with disabilities should each be included separately in state accountability systems and so-called “super-subgroups” should not be permitted as they contradict the purpose of disaggregated student data. N-sizes should be sufficiently small so as to include as many individual student groups as possible. School ratings should reflect the performance of each group of students and not simply the average of all students. States should meaningfully define the term “consistently underperforming” and identify schools to receive targeted support and improvement when any group of students is consistently underperforming. State plans should not be approved if they obscure how well schools are serving all groups of students.

Indicators in school ratings should be consistent across the state, disaggregated for each group of students and focused on student achievement. Statewide accountability systems will only be statewide if the indicators used to measure school quality are the same (across a grade span) for all schools and districts. Data must also be provided for each subgroup of students in a school and therefore measures that are only available at the school or classroom level may not be used. While there is value in multiple measures of school quality, the focus on college- and career-readiness for students should not be obscured by other data that do not align to that goal of student success. State plans should not be approved if indicators in accountability systems do not align to the purposes of ESSA’s accountability requirements.

State plans must include evidence of parent and community engagement and tribal consultation in the plan’s development and an ongoing plan to engage and consult these crucial stakeholders. Besides a student herself, no one has more to gain or lose from the quality of a school than a child’s parents and communities. States should have included parents at all steps along the development of plans and should demonstrate their intention to continue engaging parents and communities, especially for marginalized students. Similarly, states are obligated to consult with tribal leaders in the development of state plans to ensure that their children and citizens are supported and their needs are addressed. State plans should not be approved if there is insufficient evidence that parents, communities, and tribes are being heard in the state’s implementation of ESSA.

State accountability systems must emphasize the four-year graduation rate. The goal of K-12 education is for students to graduate from high school college and career ready. It is therefore critical that states use an accurate four-year adjusted cohort rate to hold schools accountable for student success. The four-year rate must be used when setting goals, as an indicator in state ratings, and when identifying high

schools with a graduation rate below 67 percent for comprehensive support. State plans may use an extended year graduation rate to support students who take longer than four years to graduate from high school; however, state plans should emphasize graduation within four years. State plans should not be approved if the four-year adjusted cohort graduation rate is not used as an indicator in the state's accountability system.

State accountability systems must include a measure of English language proficiency for English learners. The inclusion of English language acquisition in ESSA's accountability requirements was one of the most important changes made to this reauthorization of the law. The new attention to whether or not students are making progress toward English fluency will help to ensure that English learners receive the supports and services to which they are entitled. State plans should not be approved unless they include an English language proficiency indicator and long-term goals for English language proficiency.

State accountability systems must meaningfully hold schools accountable if fewer than 95 percent of all students or of any subgroup of students were not included in the state's assessment. Inclusion in the state's assessment is important to ensuring that a student's learning matters to a school and that the school is attending to the educational needs of that student. Weak or meaningless consequences for failing to meet the participation rate requirement, or loopholes created by the state, could lead to a repeat of past practice in which historically marginalized students were purposefully excluded from the assessment in order to obscure student outcomes. Transparency and validity of assessment data are also at risk. State plans should not be approved if the state fails to hold schools accountable for including all students in assessments.

State plans must include effective strategies for supporting districts to improve conditions for student learning. ESSA requires states to describe how they will assist districts to reduce: bullying and harassment, the overuse of exclusionary discipline practices (e.g. suspensions, expulsions, school-based arrests), and seclusion and restraint. Marginalized students, including students of color, students with disabilities and LGBTQ students, are disproportionately affected by bullying and harassment and exclusionary or overly punitive discipline, which can negatively impact academic progress. States must take meaningful steps to address these issues by providing districts with funding and other resources. State plans should not be approved unless they describe the specific actions the state will take to support positive conditions for student learning, especially for historically marginalized students.

The Every Student Succeeds Act is, as the latest reauthorization of the Elementary and Secondary Education Act of 1965, rooted in civil rights principles of equal opportunity in education. It is designed to help ensure that all children, no matter who they are or where they come from, have the opportunity to succeed. Failing to comply with the law only keeps children trapped and disadvantaged at a time when policymakers and educators should be working to build and support schools that nurture and empower our children to become their best selves. Weak state plans, and those that violate ESSA requirements, are an abdication of a state's commitment to our nation's most vulnerable children. Our nation's children deserve better than that.

Children go to school every day with the assumption that schools are prepared and invested in seeing them succeed. The federal government is the backstop when states fail in their responsibility to build and support the kind of schools that enable all children to reach their fullest potential. That role is more critical than ever as the federal government reviews state ESSA plans to ensure states take responsibility for the future of our children.

As the Department of Education proceeds with its weighty task of evaluating state plans, it must determine whether or not plans advance educational equity and serve the interests of all children. Low-income children, children of color, children with disabilities, English learners and Native children have been left behind for far too long and deserve no less than robust and thorough state plan review to ensure an excellent and equitable education. We appreciate your attention to our concerns. Please do not hesitate to contact Liz King, director of education policy, at king@civilrights.org or (202)466-0087.

Sincerely,

The Leadership Conference on Civil and Human Rights
Alliance for Excellent Education
Association of University Centers on Disabilities
Children's Defense Fund
Democrats for Education Reform
The Education Trust
Judge David L. Bazelon Center for Mental Health Law
League of United Latin American Citizens
MALDEF
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Council of La Raza
National Disability Rights Network
National Down Syndrome Congress
National Indian Education Association
National Urban League
National Women's Law Center
New Leaders
Partners for Each and Every Child
Southeast Asia Resource Action Center
Southern Poverty Law Center
Stand for Children
Teach Plus
TNTP
UNCF