



November 9, 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 17 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 many of us wrote to you on April 26, “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.”ⁱ **It is in that spirit that we write to express our significant concerns regarding Florida’s submitted state ESSA plan.**

In early Julyⁱⁱ, Florida posted a draft waiver request on the state department of education’s website requesting that certain provisions of the law be waived.ⁱⁱⁱ In response to the request for public comment, almost two dozen Florida organizations and individuals representing English learners, students of color, students with disabilities, low-income students and other communities sent a letter to Governor Rick Scott and Commissioner Pam Stewart expressing their opposition, “in the strongest terms,” to the waiver request.^{iv} The authors further stated that, “Our state plan should be a declaration of our commitment to educate all children in Florida. The plan should be developed in partnership with the students, parents and families who have faced barriers to success in our state and the input of our communities should drive the development of the plan.”^v

We strongly agree with and seek to reinforce the views expressed by those Florida stakeholders, and the letter’s recognition that, “The requirements of the Every Student Succeeds Act (ESSA) provide vital protections for the education of English learners, students with disabilities, students of color and low-income students in our schools. Waiving these requirements would hinder the advancement of all Florida students. Parents and communities deserve to know that schools will be held accountable for ensuring the educational success of their children and that problems will not be ignored or swept under the rug. We cannot afford to let our children down.” In lieu of that waiver application, Florida should seek to, as the law requires, hold schools accountable for disaggregated student performance, use English language proficiency assessments to measure English language proficiency, include English language proficiency as an indicator in the accountability system, make native language assessments available, and include all students in the state assessment.

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Asian Americans Advancing Justice |
AAJC

**Policy and Enforcement
Committee Chair**

Michael Lieberman
Anti-Defamation League

President & CEO

Vanita Gupta

In the plan submitted to the U.S. Department of Education for review, however, Florida did not withdraw its request in response to stakeholders. In fact, the state is no longer requesting permission to waive the law's provisions and is instead submitting a noncompliant plan. Florida's plan proposes to:

- Deny students access to native language assessments, including the over 200,000 (nearly seven percent) English learners who speak Spanish (see ESSA Section 1111(b)(2)(B)(vii)(III));
- Exclude the statutorily required subgroups defined by race/ethnicity, language, disability and family income from the accountability system (see ESSA Section 111(c)(2)), even while recognizing that these students are overrepresented among the most underserved students in Florida schools; and
- Exclude the state's measure of English language proficiency from the accountability system, as is required by the law (see ESSA Section 1111(c)(4)(B)).^{vi}

Despite the valid concerns of the Florida stakeholders, the state did not reverse course on the majority of the problematic policies it proposed. Instead, the state decided to simply submit a plan^{vii} which, by its earlier admission in the waiver application, does not meet the requirements of the law. Florida's plan must be rejected on both accounts: failing to serve the interests of marginalized students in the state, and failing to comply with the requirements of the law.

As groups wrote in the April 26 letter, "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...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.***"^{viii}

The Department of Education must reject noncompliant state plans, such as Florida's, and ensure that all state plans and waiver requests 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 with any questions or concerns.

Sincerely,

The Leadership Conference on Civil and Human Rights
Alliance for Excellent Education
Council of Parent Attorneys and Advocates
Democrats for Education Reform
Disability Rights Education & Defense Fund
The Education Trust
League of United Latin American Citizens
MALDEF
NAACP

The NAACP Legal Defense and Educational Fund, Inc. (LDF)
National Center for Learning Disabilities
National Disability Rights Network
National Down Syndrome Congress
National Urban League
Southeast Asia Resource Action Center
Southern Poverty Law Center
TNTP
UnidosUS (formerly NCLR)

ⁱ See: <https://civilrights.org/letter-secretary-devos-re-essa-state-plan-review/>

ⁱⁱ See: <http://www.edweek.org/ew/articles/2017/07/20/florida-to-seek-waiver-from-key-essa.html>

ⁱⁱⁱ See: <http://www.fldoe.org/core/fileparse.php/14196/urlt/ESSADraftWaiverRequest.pdf>

^{iv} See: https://drive.google.com/file/d/0B45XQFLN2H_bQ1dT3ZGOVE3WnM/view?usp=sharing

^v See: https://drive.google.com/file/d/0B45XQFLN2H_bQ1dT3ZGOVE3WnM/view?usp=sharing

^{vi} While it is encouraging that the state has backed away from its initial proposal to withhold disaggregated assessment participation rates, we remain concerned that the exclusion of certain groups of students from the assessment would not prompt action by the state.

^{vii} See: <http://www.fldoe.org/core/fileparse.php/14196/urlt/FL-ESSAStatePlan.pdf>

^{viii} See: <https://civilrights.org/letter-secretary-devos-re-essa-state-plan-review/>