

**Congress of the United States**  
**Washington, DC 20515**

May 25, 2017

The Honorable Betsy DeVos  
Secretary  
United States Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary DeVos:

The Department of Education (the Department) is required by law to evaluate whether state plans for implementing the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESSA), comply with statutory requirements. To assist with the review of such plans and to ensure their quality, the Department must oversee a peer review process that strengthens state plans. We respectfully ask that you describe the steps the Department is taking to use the peer review process required by the ESSA to assess and, if necessary, improve the quality of state plans prior to their approval.

Congress made clear in Title I, Part A, of the ESSA that the Department's peer review process should enhance the quality of state plans. Section 1111(a)(4)(B)(iii) explains that the purpose of the peer review process is to offer "feedback to States designed to strengthen the technical and overall quality of State plans." And Section 1111(a)(4)(C) describes an important goal of peer reviewers: to provide "objective feedback on the technical and overall quality of a State plan." Furthermore, the specific requirements outlined in Section 1111(a)(4)(A) for selecting peer reviewers with deep expertise and practical knowledge in implementing the law's core requirements reinforces the intent of Congress that the peer review process provide feedback on and improve the quality of state plans.

We are concerned that the peer review guidance the Department issued on March 28, 2017, positions the peer review process as little more than a check on the completeness of each state's application, rather than the quality control mechanism Congress clearly intended. For example, the guidance does not include questions about the evidence and rationale for the School Quality or Student Success indicators that states select. The ESSA requires that a state-selected indicator of School Quality or Student Success "allow for meaningful differentiation in school performance" across the state, but peer reviewers are asked only to check that states' indicators lend themselves to differentiation. And peer reviewers are not asked to consider evidence from states to demonstrate the extent to which their indicators will differentiate schools, nor whether states have offered convincing justification for the School Quality or Student Success indicators they propose to use in their accountability systems. Both of these considerations would yield valuable feedback on the quality of states' indicators.

Furthermore, unlike the Department's guidance for peer reviewers that was released on January 6, 2017, the March 28, 2017, peer review guidance does not include any "questions for consideration." These questions are important for helping peer reviewers effectively judge

whether each component of a state's plan is not only answered completely, but also demonstrates quality. We are concerned that, without these questions, peer reviewers' professional judgment and expertise may not be applied to fully evaluating important issues, including but not limited to:

- the rationale for states' responses;
- whether the body of research states cite offers sufficient justification for their responses;
- whether states' proposed goals and measures will yield useful information for educators and families; and
- the extent to which states are prepared to monitor and support school districts' plans.

Removing these additional questions could obscure the quality of state plans and hinder the successful implementation of the ESSA. For example, the Department's earlier guidance asked peer reviewers to check states' data to determine whether their exit criteria for schools identified for support was achievable, but the March 28, 2017, guidance asks peer reviewers to check only that state plans include the number of years schools will be given to satisfy exit criteria—not whether this timeframe is grounded in states' previous experiences helping schools improve.

Already there is considerable variation in the quality of state plans. States' proposed accountability systems include minimum n-sizes that are substantially different, calling into question the extent to which subgroups of students will count in accountability systems in some states, and the research underpinning each state's decision. Despite wide variation, the Department's current guidance for peer reviewers does not ask explicitly about the number of students who would be excluded from a state's accountability system, based on the state's proposed n-size. Additionally, states' proposed plans for meeting assessment participation rate requirements vary significantly. The guidance for peer reviewers asks whether states will factor participation rates into accountability systems; it does not ask reviewers to consider whether states have sound plans for identifying school districts with low participation rates in multiple schools and for ensuring that schools' strategies for improving participation rates are developed with input from local stakeholders. States are also proposing varying definitions of "consistently underperforming," including definitions that are weak, that vary among groups of students, and that are often unrelated to the state's achievement goals, raising concerns about the rigor and fairness of the definition. Yet the March 28, 2017, guidance asks peer reviewers only to consider basic questions about each state's definition, while failing to ask peer reviewers to consider the extent to which a state's definition will identify schools that are not on track to meet the state's achievement goals.


The ESSA gives states and school districts a great deal of flexibility and discretion to design statewide accountability systems that work for their communities; however, the intent of Congress, as evidenced by the law's statutory requirements, was to allow state plans to be designed within federally set parameters that ensure equity for underserved students and some measure of quality across states. The law's insistence on equity is unambiguous, and it upholds the federal government's responsibility for making sure states are closing achievement gaps and improving outcomes among historically underserved students. The Department's peer review


process provides an important opportunity for improving the quality of state plans and helping states realize more equitable outcomes for students. Although we recognize that no two state plans will be identical, we are concerned that the wide variances and discrepancies in how states' have proposed to address core statutory requirements could indicate a lack of quality control.

We respectfully request an explanation of how the Department will use the peer review process to improve the "technical and overall quality of State plans," as required by law, no later than Wednesday, May 31, 2017. And we ask you to explain the extent to which you will consider the conclusions and recommendations of peer reviewers, who have applied their professional judgment and expertise to evaluating state plans, in reaching a final determination about whether to approve state plans.

Thank you for your attention to our request.


Sincerely,


  
Suzanne Bonamici  
Member of Congress

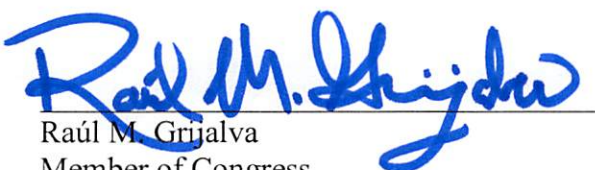
  
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Tammy Baldwin  
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Member of Congress

  
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Lisa Blunt Rochester  
Member of Congress



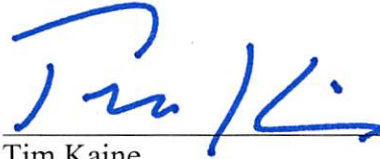
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Margaret Wood Hassan  
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