January 13, 2017

Dear Colleague:

I want to begin by thanking you for the substantial work you have done—and that you continue to do—to enable a successful transition to the Every Student Succeeds Act (ESSA), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). The ESSA provides a significant opportunity for States and school districts to develop and implement new plans to help secure educational equity for all children, close achievement gaps, and continue making progress in supporting educators, students, and their families.

In November 2016, the U.S. Department of Education (Department) released final regulations regarding statewide accountability systems and data reporting under Title I of the ESEA and the preparation of State plans, including consolidated State plans for ESEA State formula grant programs. In those regulations, in response to overwhelming requests from States and other stakeholders as well as Members of Congress, the Department clarified that a State may delay identification of schools for comprehensive support and improvement, as well as schools with low-performing subgroups for targeted support and improvement, until the beginning of the 2018–2019 school year and may delay identification of schools with consistently underperforming subgroups for targeted support and improvement until the beginning of the 2019–2020 school year. In the November 29, 2016, Dear Colleague Letter on ESSA State Plans, the Department revised the deadlines for State plan submissions to include application windows in April 2017 and September 2017. Consequently, we anticipate that many States will not have their State plans, including their methodologies for identifying schools for comprehensive or targeted support and improvement, approved prior to the start of the 2017–2018 school year and, therefore, will not be ready to fully implement their new accountability systems by the beginning of the 2017–2018 school year. The purpose of this letter is to address some key questions arising from this delayed implementation timeline.

Supporting Low-Performing Schools

Consistent with the provisions of the ESSA that authorize the Department to ensure an orderly transition to the new law, each State must continue to provide supports and interventions in the State's low-performing schools in the 2017–2018 school year in the same manner in which it supported and intervened in those schools in the 2016–2017 school year.

To identify its low-performing schools in the 2017–2018 school year:

- A State that operated under ESEA flexibility prior to the termination of that flexibility on August 1, 2016, may either: (1) continue to serve its existing priority and focus schools, except that the State may remove from the list of priority and focus schools any school that has met the State's exit criteria; or (2) refresh its list using its existing methodology in place prior to the start of the 2017–2018 school year.

- A State that did not operate under ESEA flexibility prior to August 1, 2016, must continue to support and intervene in schools or local educational agencies (LEAs) that were identified in the 2016–2017 school year by the State as in need of improvement, corrective action, or restructuring under the ESEA, as reauthorized by the No Child Left Behind Act of 2001 (NCLB), except that the State may remove from the list any school that has met State-determined criteria to no longer be identified for improvement, corrective action, or restructuring.

If a State receives approval of its new State plan under the ESSA in time to identify schools for comprehensive or targeted support and improvement during the 2017–2018 school year, it may choose to begin implementation of improvement plans in any newly identified schools, rather than wait until the beginning of the 2018–2019 school year. The Department will work with such a State to ensure that schools identified for comprehensive or targeted support and improvement and their LEAs begin developing school improvement plans in a timely manner consistent with the requirements of the ESEA, as amended by the ESSA.

School Improvement Resources

The ESEA, as amended by the ESSA, also requires each State to reserve funds for LEAs to support schools that are identified by the State for comprehensive or targeted support and improvement under its new accountability system. More specifically, under section 1003(a) of the ESEA, as amended by the ESSA, each State must reserve from its annual Title I, Part A allocation the greater of (1) seven percent of that allocation, or (2) the sum of the amount reserved for fiscal year 2016 under section 1003(a) of the ESEA, as amended by NCLB, and the amount received for fiscal year 2016 for School Improvement Grants (SIG) under section 1003(g) of the ESEA, as amended by NCLB.

In fiscal year 2017 (*i.e.*, for use in the 2017–2018 school year), each State must allocate funds under section 1003(a) of the ESEA, as amended by the ESSA, by competition or by formula to LEAs with low-performing schools (identified consistent with the "Supporting Low-Performing Schools" section above). In addition, a State may choose to use the funds that it reserves in fiscal year 2017 to support full implementation of SIG awards initially made with prior-year funds, as described in the Department's letter to SIG Directors from March 2016.

Finally, we remind you that, consistent with section 421(b) of the General Education Provisions Act, a State that does not need all of the school improvement funds it reserves in fiscal year 2017 to serve identified schools in the 2017–2018 school year may carry over any remaining funds for use in the 2018–2019 school year, once it has an approved State plan and identified schools for comprehensive and targeted support and improvement. In particular, we encourage a State choosing to exit schools from improvement status in the 2017–2018 school year—without refreshing its lists of low-performing schools—to consider carrying over a portion of its fiscal year 2017 funds under section 1003(a) of the ESEA, as amended by the ESSA, for use in the 2018–2019 school year in order to support its first cohort of schools identified under the ESSA, when LEAs and schools will require additional support from the State to implement the new school improvement provisions, including evidenced-based interventions, required by the ESSA. We also note that LEAs may use their fiscal 2017 funds under section 1003(a) on district-level activities intended to support schools that receive school improvement funds, which an LEA may determine is advisable given the new cohort of schools in the 2018-2019 school year. For example, an LEA may hire a district-level turnaround specialist to establish an "early warning system" designed to identify students in identified schools who may be at risk of failing to achieve high standards or graduate, or to support implementation of evidence-based interventions in such schools.

All of the Department's guidance related to the transition to the ESSA can be found at http://www2.ed.gov/policy/elsec/leg/essa/index.html. If you have any questions or need additional information, I encourage you to reach out to your Office of State Support contact at OSS.[State]@ed.gov (*e.g.*, OSS.Nebraska@ed.gov). Additionally, I encourage you to sign up to receive updates on ESSA guidance, including transition guidance, by clicking here.

Thank you for your ongoing commitment to improving educational outcomes for all students.

Sincerely,

/s/

Ann Whalen
Senior Advisor to the Secretary
Delegated the duties of Assistant Secretary for
Elementary and Secondary Education

cc: State Title I Directors
State SIG Directors

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.