



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

JUL 28 2011

The Honorable Wayne G. Sanstead
State Superintendent
North Dakota Department of Public Instruction
600 East Boulevard Avenue
Bismark, North Dakota 58505-0440

Dear Superintendent Sanstead:

I am writing in response to North Dakota's requests to amend its state accountability plan under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Following discussions between the Department and your staff, you made changes to North Dakota's accountability plan. I am pleased to approve North Dakota's amended plan, which we will post on the Department's website. A summary of North Dakota's amendments, which outlines four acceptable amendments and one unacceptable amendment, is enclosed with this letter. As you know, any further requests to amend North Dakota's accountability plan must be submitted to the Department for review and approval as required by section 1111(f)(2) of Title I of the ESEA.

Please be aware that, in approving North Dakota's targets for its five-year and six-year adjusted cohort graduation rates, I am not approving North Dakota's methodology for calculating those rates, which we are addressing through a separate review process. Please also be aware that approval of North Dakota's accountability plan does not indicate that the plan complies with Federal civil rights requirements, including Title VI of the *Civil Rights Act of 1964*, Title IX of the *Education Amendments of 1972*, Section 504 of the *Rehabilitation Act of 1973*, Title II of the *Americans with Disabilities Act*, and requirements under the *Individuals with Disabilities Education Act*.

I am confident that North Dakota will continue to advance its efforts to hold schools and school districts accountable for the achievement of all students. If you need any additional assistance to implement the standards, assessment, and accountability provisions of the ESEA, please do not hesitate to contact Collette Roney (Collette.Roney@ed.gov) of my staff.

Sincerely,

Michael Yudin
Deputy Assistant Secretary
for Policy and Strategic Initiatives

Enclosure

cc: Greg Gallagher

Amendments to North Dakota's Accountability Plan

The following is a summary of North Dakota's amendment requests. Please refer to the Department's website (<http://www.ed.gov/admins/lead/account/stateplans03/index.html>) for North Dakota's complete accountability plan.

Acceptable amendments

The following amendments are aligned with the statute and regulations.

- **Definition of a New School (Element 1.1)**

Revision: North Dakota added to its definition of "public school" a definition of new schools, specifically, that new schools are schools created where no previous school existed and that new schools are distinct from newly reorganized and/or consolidated schools, such as schools with changed grade configurations or that result from the merger of previously existing schools.

- **Procedures for making AYP determinations when there are significant change at a school or school district (Element 1.1)**

Revision: North Dakota clarified how adequate yearly progress (AYP) and school and district improvement status are determined for reorganized and/or consolidated public school districts and schools, specifically indicating that three years of available historical individual student achievement data are compiled for reorganized and/or consolidated public school districts and schools and used as a basis for school and district AYP and improvement status determinations.

- **Definition of a limited English proficient (LEP) student (Element 5.4)**

Revision: North Dakota added an operational definition of an LEP student and an operational definition of criteria for students to exit from the LEP subgroup. Specifically, North Dakota outlined that an LEP student must: 1) be at least five years of age, but must not have reached the age of twenty-two; 2) be enrolled in a school district in North Dakota; 3) have a primary language other than English or come from an environment in which a language other than English significantly impacts the individual's level of English language proficiency; and 4) have difficulty speaking, reading, writing, and understanding English as shown by assessment results generated through the state's primary screening assessment (WAPT). North Dakota also established that to exit LEP status a student must earn on the ACCESS assessment, the state's sole measure of exiting LEP services, an overall proficiency level score of 5.0 on a 6.0 scale, with a minimum score of 3.5 in each category of reading, writing, listening and speaking.

- **Establishing targets for five-year and six-year adjusted cohort graduation rates for use in determining AYP (Element 7.1)**

Revision: North Dakota added both five-year and six-year extended adjusted cohort graduation rates targets to its AYP determinations for the 2010-11 school year. Where the target is measured as the percent reduction of non-graduates from the preceding year against North Dakota's 89 percent graduation rate goal, North Dakota established a 12.5 percent target for the five-year extended cohort and a 15 percent target for the six-year extended cohort.

Unacceptable amendment

The following amendment is not aligned with the statute and regulations and, therefore, is not approved.

- **Intermediate goals for determining AYP (Element 3.2)**

North Dakota requested approval to amend its intermediate goals, and corresponding annual measurable objectives, for determining AYP. Because North Dakota has not changed its assessments or academic achievement standards but rather is using the assessments and achievement standards on which its current intermediate goals are based, there is no basis for North Dakota to establish a new starting point for establishing intermediate goals or annual measurable objectives. In addition, North Dakota's request to change its intermediate goals, and corresponding annual measurable objectives, for future years is not consistent with the statutory requirements on which North Dakota's trajectory from its starting point to 100 percent proficiency must be based. (See ESEA section 1111(b)(2)(E)-(H)).