UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 26, 2024

The Honorable Heather Bouchey
Interim Secretary
Vermont Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

Dear Interim Secretary Bouchey:

On July 21, 2023, the U.S. Department of Education (Department) placed the Vermont Agency of Education's (AOE) fiscal year (FY) 2023 Title I, Part A grant on high-risk status after the State did not identify schools for support and improvement using data from the 2021-2022 school year, as required under ESEA section 1111(c) and (d) and pursuant to Vermont's assurance to the Department as part of its request to waive accountability and school identification requirements for the 2020-2021 school year. Because the AOE has not met the conditions of this high-risk status, the Department intends to withhold 25 percent of AOE's Title I, Part A administrative funds under section 1111(a)(7) of the Elementary and Secondary Education Act of 1965 (ESEA).

In our July 21, 2023, correspondence, the Department outlined the following requirements:

1. Within 10 calendar days, submit evidence that AOE identified schools for comprehensive support and improvement (CSI), targeted support and improvement (TSI), and additional targeted support and improvement (ATSI) consistent with ESEA sections 1111(c) and 1111(d) and the State's approved consolidated State plan based on 2021-2022 data or provide a specific date by which AOE will do so (which may not be later than September 8, 2023).
2. Within 10 calendar days, submit evidence that AOE published its State and local report cards for school year 2021-2022 consistent with ESEA section 1111(h) or provide a specific date by which AOE will do so (which may not be later than September 8, 2023).
3. By no later than October 1, 2023, submit evidence that AOE required all schools that were identified based on data from the 2021-2022 school year to begin implementation of support and improvement plans in the 2023-2024 school year consistent with ESEA section 1111(d) (i.e., the schools are not permitted to have a planning year in the 2023-2024 school year).
4. By no later than November 15, 2023, submit evidence that AOE implemented its accountability system for the 2023-2024 school year using data from the 2022-2023 school year and identified schools for TSI.
5. By no later than January 15, 2024, submit evidence that AOE published State and local report cards for the 2022-2023 school year.

6. By February 21, 2024, submit AOE's required ED*Facts* school year 2022-2023 accountability data.

On September 8, 2023, AOE sent a letter to the Department, stating that it identified schools for the 2022-2023 school year based on data from the 2021-2022 school year and published State and local report cards for the 2021-2022 school year. The Department sent several follow-up inquiries asking for clarification about whether AOE identified TSI and ATSI schools. AOE responded on November 28, 2023, notifying the Department that it only identified schools for CSI and did not identify schools for ATSI or TSI for the 2022-2023 school year based on data from the 2021-2022 school year as required. AOE stated that it did not have two consecutive years of data to identify schools for TSI and had no schools eligible for ATSI identification. The Department spoke with AOE in January 2024 and confirmed that the State did not identify TSI or ATSI schools.

Additionally, as noted above in our letter on July 21, 2023, AOE was required to identify schools for TSI (based on data from the 2022-2023 school year) no later than November 15, 2023. While AOE stated on September 8, 2023, that it would identify schools for TSI based on data from the 2022-2023 concurrent with its next report card release (which it expected to be no later than January 15, 2024), AOE has failed to meet the required steps outlined in the Department's July 21, 2023, correspondence.

Failing to identify schools for TSI and ATSI using data from the 2021-2022 school year, more than a full year after identifications should have occurred, is a significant violation of the ESEA. A State accountability system provides useful information to school leaders, educators, parents, and stakeholders; supports informed decisions about programs and services; and helps allocate resources to support student needs, including for historically underserved student groups. To maximize the utility of the information, the State must provide it in a timely manner, as close to the beginning of the subsequent school year as reasonably possible. While we understand that restarting the accountability system and identifying schools following the COVID-19 pandemic posed unexpected challenges, AOE's extended delays raise significant concerns. Over the past two years, the Department has been clear that States were required to identify schools for CSI, TSI, and ATSI using data from the 2021-2022 school year. To support States in meeting these requirements, the Department permitted States to submit a one-time COVID-19 Addendum to modify systems of annual meaningful differentiation and methodologies for identifying schools, including TSI and ATSI schools, to account for missing data and the impact of the pandemic and ensure compliance with all statutory requirements (as well as the assurance each State made in its 2020-2021 waiver request that it would identify CSI, TSI, and ATSI schools using data from the 2021-2022 school year). AOE submitted an Addendum for Department review and received approval on November 2, 2023. Although the State made multiple changes to its accountability indicators, it did not request changes to its methodologies to identify schools.[1]

[1] The Department specifically addressed the requirement to identify schools for TSI in its accompanying COVID-19 Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA), published on February 15, 2022 (Question C-4 at https://oese.ed.gov/files/2022/02/Acct-FAQ-Final-2.11.22.pdf).

In its July 21, 2023, letter, the Department indicated that if AOE did not complete all required accountability designations, the Department may proceed with withholding a portion of the State's Title I, Part A administrative funds, consistent with section 1111(a)(7) of the ESEA. Accordingly, the Department intends to withhold 25 percent ($100,000) of AOE's FY 2023 Title I, Part A allocation for State administration, pursuant to section 1111(a)(7) of the ESEA, which would revert to local educational agencies (LEAs) in the State in accordance with the Title I regulations governing within-State allocations to LEAs. AOE has until the first business day following 15 days from the date of this letter to show cause, in writing, why the Department should not withhold $100,000 of the fiscal year 2023 Title I, Part A funds available to AOE for State administration. Information about why the Department should not withhold funds must be submitted via e-mail to my staff at OESE.titlei-a@ed.gov. If a request for reconsideration is not received within 15 business days, the Department's action will be considered final.

In addition, the Department is modifying the conditions that AOE must meet to remove high-risk status under 2 C.F.R. §§ 200.208 and 3474.10. Specifically, AOE must:

1. By February 15, 2024, submit evidence that AOE has identified schools for both TSI and ATSI consistent with ESEA sections 1111(c) and 1111(d) and the State's approved consolidated State plan using data, at a minimum, from the 2022-2023 school year.
2. By no later than February 15, 2024, submit evidence that AOE published State and local report cards for the 2022-2023 school year, including assessment performance data disaggregated by military-connected students, as is required under ESEA section 1111(h)(1)(C)(ii).
3. By February 21, 2024, submit AOE's required ED*Facts* school year 2022-2023 accountability data.

Finally, I want to express my thanks for your efforts since you assumed office in July to address critical requirements from the last several school years and your commitment to bringing Vermont into compliance with these requirements. Our team is here to support yours in this work. If you have questions or needs, please contact my staff at: OESE.titlei-a@ed.gov.

Sincerely,



Adam Schott
Deputy Assistant Secretary for Policy and Programs
Delegated the Authority to Perform the
Functions and Duties of the Assistant Secretary
Office of Elementary and Secondary Education

cc: Glenn Bailey, Anne Bordonaro, Danielle Dupuis, Jennifer Hicks, Josh Souliere, AOE