

September 30, 2016

Diane Douglas, Superintendent
Arizona Department of Education
1535 West Jefferson Street
Phoenix, Arizona 85007
Email: ESSAInbox@azed.gov

Dear Superintendent Douglas,

The undersigned organizations and agencies serve Arizona's foster youth and juvenile justice-involved youth. We have reviewed Arizona's State Education Agency Consolidated State Plan Initial Draft for Public Comment ("Draft State Plan") and submit the following comments for your consideration.

Youth in Arizona's foster care and juvenile justice systems (together, "system-involved youth") face significant barriers to educational success. In its current form, the Draft State Plan fails to include specific required assurances and strategies to support the education of students in foster care and the juvenile justice system. We urge the Arizona Department of Education ("ADE") to revise the Draft State Plan.

Arizona is home to approximately 18,000 students in foster care at any given time. A 2015 report, *Arizona's Invisible Achievement Gap*, found that these students underperform relative to their peers in statewide testing, are more likely to experience school placement changes and to be enrolled in low-performing schools, have the highest dropout rate and among the lowest high school graduation rates, and constitute an at-risk subgroup that is distinct from low socio-economic status students.¹ Later in life, these students experience higher rates of unemployment, homelessness, and incarceration, at great cost to themselves and the state.

A 2016 report indicated that nearly 27,000 youth were referred to Arizona's juvenile justice system, with approximately 9,000 of those youth proceeding through the juvenile justice system on formal charges.² Youth who have contact with the juvenile justice system ("justice-involved youth"), whether or not they are formally charged, face unique challenges in their education: research indicates that at least 40% of justice-involved youth require special education,³ 50% of justice-involved youth perform below grade level,⁴ and justice-involved youth are four times as likely as their peers to drop out of school.⁵ Furthermore, research indicates that students who have negative experiences in school and lack support from school staff have a higher incidence of delinquency.⁶

State education agencies ("SEAs") and local education agencies ("LEAs") can play a pivotal role in closing the achievement gap for system-involved youth. The *Every Student Succeeds Act (ESSA)* outlines key requirements regarding what SEAs and LEAs must do to both support system-involved youth as a whole *and* to target specific areas of need for foster and justice-involved youth. In addition to adhering to the requirements of *ESSA*, Arizona has the ability to set more rigorous guidelines for LEAs in order to best serve system-involved youth. As such, the Draft State Plan should be revised as follows:

I. We urge ADE to include assurances to support students in foster care.

We urge ADE to revise its Draft State Plan to describe how it will collaborate with Arizona's child welfare agency to ensure the educational stability of students in foster care. Specifically, ADE should make the following assurances:

- **ADE will ensure that students in foster care are entitled to enroll in or remain in their school of origin, unless a determination is made that it is not in their best interest to do so. Such**

determinations will be based on best interest factors, including the appropriateness of the student's current educational setting and the proximity to the school in which the student is enrolled at the time of placement.⁷ This is crucial to ensuring educational stability and uninterrupted learning.

- **ADE will ensure that if a determination is made that it is not in the student's best interest to remain in the school of origin, the student will be immediately enrolled in a new school, even if the student cannot produce records normally required for enrollment.⁸** This is critical for ensuring students do not experience delays or gaps in enrollment and learning.
- **ADE will ensure that the enrolling school must immediately contact the student's previous school to obtain academic and other records.⁹** This is key to ensuring the enrolling school can serve the student effectively, and to ensuring the student receives all appropriate course credit.
- **ADE will designate an employee to serve as a state point of contact for child welfare agencies, to oversee implementation of ADE's responsibilities. This point of contact will not be the same person as the State Coordinator for Education of Homeless Children and Youth under the McKinney-Vento Homeless Assistance Act.¹⁰** This is an important step to facilitating effective collaboration between ADE and the state child welfare agency.
- **ADE will ensure that LEAs receiving funds under Title I, Part A will provide students in foster care transportation, as necessary, to and from their schools of origin, consistent with the procedures developed by LEAs in collaboration with state or local child welfare agencies, even if the LEA and local child welfare agency do not agree on which agency or agencies will pay any additional costs incurred to provide such transportation.¹¹** This is essential to ensuring that students experience educational placement stability and avoid delays or gaps in their learning.
- **ADE will ensure that its annual State report card contains information on the student achievement of students in foster care and high school graduation rates for students in foster care, including four-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates.¹²** This is crucial to tracking the performance of students in foster care.

The federal Department of Education and Department of Health and Human Services have released detailed guidance regarding implementation of ESSA's requirements regarding students in foster care, *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (<http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>). We strongly encourage ADE to consult this federal guidance in further developing its Draft State Plan and in supporting local implementation of requirements pertaining to students in foster care.

II. We urge ADE to include assurances and detailed strategies to support justice-involved youth.

- **ADE should describe any Title I, Part D programs serving students transitioning between juvenile justice facilities and LEAs, how such programs will be monitored and evaluated to ensure proper use of funds and student progress, as well as requisite assurances.¹³** For example, ADE should provide assurances regarding timely reenrollment and transfer of student records and credits and opportunities for students to earn academic credit and regular high school diplomas.

III. We urge ADE to include assurances and detailed strategies that support all system-involved youth.

- **ADE should report an extended-year adjusted cohort graduation rate, in addition to the four-**

year high school cohort graduation rate.¹⁴ Due to their significant school instability, reentry needs and other challenges, system-involved youth often require additional years to graduate. An extended-year adjusted cohort graduation rate would increase visibility of these students' graduation rates.

- **ADE should adopt the “School Climate and Safety” indicator as an additional indicator in its statewide accountability system.**¹⁵ School climate is a leading predictor of school dropout. The School Climate and Safety indicator must be measurable such that it can be compared across schools and districts; therefore, the ADE should outline the data that the state and LEAs will disaggregate by subgroup, analyze and report on an annual basis, such as days of lost instruction and disciplinary incidents (including expulsions, in-school suspensions and out-of-school suspensions).
- **ADE must specify how it will support LEAs to improve school conditions for student learning, such as reducing “overuse of discipline practices” and the use of “aversive behavioral interventions.”**¹⁶ ADE should detail its plan for review of LEA data on such activities, provision of funding and/or technical assistance, and other oversight activities. ADE should also provide its definitions for those terms in order to standardize state and LEA efforts to reduce such practices.
- **ADE should categorize foster youth and justice-involved youth as two additional subgroups for purposes of its state accountability system.**¹⁷ ESSA's subgroup categorizations are the minimum permissible subgroups; ADE can and should create additional subgroups. Disaggregation of system-involved youth's outcomes in regards to the required accountability indicators will provide a necessary, data-driven perspective on how SEAs and LEAs can effectively close the achievement gap for these high-needs youth.

Thank you for considering our comments. We would welcome the opportunity to meet with ADE to discuss these comments further and, if helpful, to develop specific language regarding the above points for inclusion in the Draft State Plan. We also look forward to reviewing the next draft later this fall.

Sincerely,

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¹ Barrat, V., Berliner, B., & Felida, N. (2015). *Arizona's Invisible Achievement Gap: Education Outcomes of Students in Foster Care in the State's Public Schools*, available at http://youthlaw.org/wp-content/uploads/2015/12/AZ_foster_care_report_20150929.pdf

² Hart, B., Children's Action Alliance (2016), *Juvenile Justice in Arizona: The Fiscal Foundations of Effective Policy*, available at <http://azchildren.org/wp-content/uploads/2016/01/JUVENILE-JUSTICE-IN-AZ.pdf>.

³ Robinson, T.R., & Rapport, M.J.K. (1999). Providing Special Education in the Juvenile Justice System. *REMEDIAL & SPECIAL EDUCATION*, 20, 19–26.

⁴ Meltzer, L.J., Levine, M.D., Karniski, W., Palfrey, J.S., & Clarke, S. (1984). *An Analysis of the Learning Styles of Adolescent Delinquents*. *JOURNAL OF LEARNING DISABILITIES*, 17, 600–608.

⁵ Sweeten, G. (2006). *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*. *JUSTICE QUARTERLY*, 23(4), 473.

⁶ Christle, C. A., Jolivet, K., & Nelson, C. M. (2005). *Breaking the School to Prison Pipeline: Identifying School Risk and Protective Factors for Youth Delinquency*. *EXCEPTIONALITY*, 13(2) 69-88.

⁷ *See Elementary and Secondary Education Act of 1965*, as amended by the *Every Student Succeeds Act (ESSA)*, 20 U.S.C. § 6311(g)(1)(E)(i).

⁸ *See* 20 U.S.C. § 6311(g)(1)(E)(ii).

⁹ *See* 20 U.S.C. § 6311(g)(1)(E)(iii).

¹⁰ *See* 20 U.S.C. § 6311(g)(1)(E)(iv).

¹¹ *See* 20 U.S.C. § 6312(c)(5)(B); Proposed 34 C.F.R. § 299.13(c).

¹² *See* 20 U.S.C. § 6311(h)(1)(C)(iii).

¹³ *See* 20 U.S.C. § 6434(a).

¹⁴ *See* 20 U.S.C. § 6311(c)(4)(A)(i)(I).

¹⁵ *See* 20 U.S.C. § 6311(c)(4)(B)(v).

¹⁶ *See* 20 U.S.C. § 6311(g)(1)(C).

¹⁷ *See* 20 U.S.C. § 6311(c).