

**U. S. Department of Education  
Office of Career, Technical, and Adult Education**

**Response to Second Notice for Perkins State Plan Guide (1830-0029)**

Twelve (12) sets of public comments were received on the U. S. Department of Education’s (Department’s) Perkins V State Plan Guide during the thirty (30) day period from February 7 – March 11, 2019. The Department’s responses to those comments, as provided below, are organized by the Table of Contents for the guide.

**OVERALL**

Several commenters noted that, throughout the State Plan Guide the terms “optional”, “if an eligible agency chooses to do so”, and “at the state’s discretion” are used interchangeably. The commenters noted that these terms are being interpreted differently because they are phrased differently, even if the intent is for them to have the same meaning. The commenters recommended “using the term “optional” where possible to clarify when items are not required and the phrase “at the eligible agency’s discretion” to identify decisions that are within the purview of the eligible agency.

Department’s Response: We appreciate the commenters’ input and have reviewed and clarified, as necessary, the usage of these terms.

**LETTER FROM ASSISTANT SECRETARY SCOTT STUMP**

One commenter recommended an edit to the fourth bullet in the Assistant Secretary’s letter to read, “where, when, how, and to whom,” in recognition of the importance of working with community partners to meet state and local goals in the career and technical education (CTE) space through flexibility and innovation at all times across a student’s day.

Department’s Response: We appreciate the commenters’ input and have made the edit to the Assistant Secretary’s letter.

**INTRODUCTION AND SUBMISSION REQUIREMENTS**

Several commenters noted that the statute allows the Secretary of Education 120 days to approve a plan (transition or full state plan), but the May 24, 2019 submission deadline<sup>1</sup> poses a conflict with the allowed 120 day review period and the July 1 start of the fiscal year. The commenters recommended that the Department clarify that the review process will be truncated and ensure that all transition plans that meet the law’s requirements be approved by July 1, 2019.”

Department’s Response: We appreciate the commenters’ input and have added a clarifying footnote to Table 3 in the Introduction and Submission Requirements.

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<sup>1</sup> This date was announced by the OCTAE Assistant Secretary via email correspondence to the State CTE directors on February 1, 2019.

Several commenters recommended an edit to the chart on page 7, removing the words “and Performance Levels” from the second row of the first column on the chart in order to distinguish that item from the information about submitting performance levels on the third row of the chart.

Department’s Response: We appreciate the commenters’ input and have made the change to Chart 5 in the Introduction and Submission Requirements.

## **COVER PAGE**

Several commenters asked for the following notations on Item F on the cover page—

“F. Type of Perkins V State Plan Submission - Subsequent Years (Check one):

State Plan (FY 2020-23) – *if an eligible agency selects this option, it will complete Items H, I, and J*

State Plan Revisions (Please indicate year of submission: ) - *if an eligible agency selects this option, it will complete Items H and J*”

Department’s Response: We appreciate the commenters’ input and have made the notations to Item F on the Cover Page.

## **II. NARRATIVE DESCRIPTIONS – PLAN DEVELOPMENT AND CONSULTATION**

Several commenters reiterated their request that the Department require States to submit in their State plan a list of organizations, their consultation category, and the method of consultation they represent to ensure that these groups have had an adequate voice in the development of the State plan. The commenters indicated that it is critical that organizations representing all nine groups named in the special populations’ definition participate in consultation.

Department’s Response: While we appreciate the commenters’ request, no changes have been made. As we noted in our response to the 60-day comment period, we do not believe it is possible or practicable to develop a checklist of stakeholders that would be relevant and useful for every State’s organizational structure and context. We believe the general listing in Text Box 1: “Requirements for State Plan Consultation in Section II.A: Narrative Descriptions for Plan Development and Consultation,” is sufficient for eligible agencies to record and maintain in their official program files the organizations for consultation.

## **II. NARRATIVE DESCRIPTIONS – PROGRAM ADMINISTRATION AND IMPLEMENTATION**

Several commenters noted that we inadvertently failed to include a text box with the statutory definition for career pathways, which we indicated in our response to the 60-day comment period that we would include.

Department's Response: We appreciate the commenters' input and have added Text Box 3 in Section II.B: Narrative Descriptions for Program Administration and Implementation.

One commenter requested that we include a text box with the statutory requirements for the local application.

Department's Response: We appreciate the commenter's request and have added Text Box 4 in Section II.B: Narrative Descriptions for Program Administration and Implementation.

One commenter recommended that the Department require States to describe how they will use the three special population set-asides of state leadership funds under section 112(a)(2) of Perkins V.

Department's Response: The State Plan Guide includes a requirement in Item B.1.d in Section II. Narrative Descriptions for the eligible agency to describe how it will use State leadership funds made available under section 112(a)(2) of Perkins V. The guide further includes a text box with the required uses of State leadership funds. We added the language "for each of the purposes under section 124(a) of the Act" to further clarify the expectation that the eligible agency describe how they will use funds for each of the three special population categories.

One commenter request that eligible recipients fully document how they will ensure learning in the subjects that constitute a well-rounded education as defined by section 8101 of the Elementary and Secondary Education Act (ESEA). The commenter indicated that this is a new request in the law and should be stated clearly in district level plans, so they recommend that State level plans separate the two areas of 134(b) to allow districts to fully address this new section of the law.

Department's Response: While we appreciate the commenter's input, no changes have been made. In this section and throughout the guide, we have generally only included the statutory provisions of Perkins V, which do not require the eligible agency to document how it will align with the definition of well-rounded education in the ESEA. That said, the Department will closely review the local application templates and/or guidelines submitted by eligible agencies as part of their Perkins V State plans to ensure they meet the statutory requirements for the contents of local applications, including a description of how the eligible recipient will ensure learning in the subjects that constitute a well-rounded education pursuant to section 134(b)(4) of Perkins V.

Finally, it came to our attention that Item 2.b, consistent with the Perkins V statute, refers to section 132 (distribution of funds for postsecondary education programs). Item 2.b requires an eligible agency to "describe the process and criteria to be used for approving locally developed programs of study or career pathways, including how such programs address State workforce development and education needs and the criteria to assess the extent to which the local application under section 132 will..." Given the context of this statement, the reference should be section 134 (local application for career and technical education programs).

Department's Response: We have added a footnote to Item 2.b in Section II.B: Narrative Descriptions for Program Administration and Implementation.

## **II. NARRATIVE DESCRIPTIONS – FISCAL RESPONSIBILITY**

Several commenters recommend removing Item C.1.c from the transition plan since eligible agencies will not have the local needs assessment template or guidance finalized by the time they submit the transition plan, nor will they have had enough time to adequately address this component of the needs assessment with stakeholders.

Department's Response: We agree with the commenters and have made the corresponding change to Table 1: Checklist of Items Required in Perkins V State Plans Submitted in FY 2019 in the Introduction and Submission Requirements.

Several commenters recommended removing this requirement for an eligible agency to describe the process and criteria for awarding reserve funds under section 112(c) of Perkins V. The commenters indicate that “this description is not required by statute (not in section 112 nor 122), nor does it align with the legislative intent for the use of the reserve fund to be able to address specific priorities in a flexible way (including perhaps annually changing the focus of the reserve fund or even having the reserve fund be used for multiple purposes each year).

Department's Response: We appreciate the commenters' input and have eliminated this requirement from the State Plan Guide. We will continue to require eligible agencies to report on their use of the reserve fund through the Perkins V Consolidated Annual Report information collection (OMB Control Number 1830-0569). We will also incorporate discussions on the use of the reserve fund in our State technical assistance visits, which will be ongoing through FY 2020 when States submit their full Perkins V State plans.

## **II. NARRATIVE DESCRIPTIONS – ACCOUNTABILITY FOR RESULTS**

Several commenters recommended clarifying Item D.5 with language from the page 11, paragraph three of the Senate Committee Report on Perkins V, which references this requirement and states, “For example, an eligible agency could indicate that it will analyze data on the core indicators of performance to identify gaps in performance, explain how they will use evidence-based research to develop a plan to provide support and technical assistance to eligible recipients to address and close such gaps, and how they will implement this plan. The eligible agency is not required to submit a new State plan prior to the third program year in order to address this requirement.” The commenters indicated that it is critical to add this distinction because this element should not require state or local leaders to include performance gaps or specific interventions for addressing those gaps in their initial plans, since no actual data will be available at that time.

Department's Response: We agree with the commenters and have made the corresponding change to Item 5 in Section II.D: Narrative Descriptions for Accountability for Results.

Several commenters reiterated concern that if the definition of “CTE Concentrator” includes students who only take two CTE courses, then there would not be much differentiation between the data collected under Perkins V and that collected under the ESEA, because, as the commenter stated, most high school students enroll in at least one CTE course, so according to the commenter, a sequence of two courses is an insufficient threshold for true CTE concentration. Therefore, the commenters recommended that the Department permit States to interpret the definition of “CTE Concentrator” allow states to define concentrators as students who complete three or four courses in a program of study.

Department’s Response: While we appreciate the commenters’ input, no change has been made. As we indicated in our response to the 60-day comment period, in this section and throughout the guide, we have generally included verbatim language from the Perkins V statute. Section 3(12)(A) of Perkins V defines a CTE concentrator as “at the secondary school level, a student served by an eligible recipient who has completed at least 2 courses in a single career and technical education program or program of study.” The statutory definition is clear and the Perkins V statute does not provide, either in the definition or where the term is used throughout the statute, an eligible agency the flexibility to define a concentrator as a student who completes three or four courses in a career and technical education program or program of study.

One commenter expressed its concern with the Department’s response to the 60-day public comments for not requiring eligible agencies to “specifically describe how they will take into account the performance of historically underserved subgroups when developing State Determined Levels of Performance for Core Indicators of Performance.” The commenters indicated that “the statute in sections 113(b)(3)(A)(i)(III)(bb) and 113(b)(4)(A)(i)(II) specifically requires State and Local Levels of Performance, respectively, to continually make meaningful progress toward improving the performance of all career and technical education students, including subgroups of students and special populations.”

Department’s Response: We have revised the requirement in Item D.3.b in Section II.D: Accountability for Results to require the eligible agency to include—“an explanation for the State determined levels of performance that meet each of the statutory requirements in Text Box 8: Statutory Requirements for State Determined Levels of Performance,” which includes subgroups and special populations. This revision will ensure that each eligible agency describes how it will continually make meaningful progress toward improving the performance of all career and technical education students, including subgroups of students and special populations.

#### **IV. BUDGET**

One commenter noted an incorrect reference to the amount of funds available for the recruitment of special populations to enroll in career and technical education programs pursuant to section 112 (a)(2)(C) of Perkins V. The commenter indicated that the amount “shall be made available for the recruitment of special populations to enroll in career and technical education programs, which shall be not less than the lesser of—(i) an amount equal to 0.1 percent; or (ii) \$50,000.”

Department's Response: We agree with the commenter and have made this change to Item A.2, Line 6 in Section IV.A: Instructions for the Budget.

Several commenters recommending removing the requirement for eligible agencies to report on the amount of funds to be dedicated to Correctional Institutions, Juvenile Justice Facilities and Institutions that Serve Individuals with Disabilities, respectively. The commenters indicated that “because the legislation lists these as the options for this set-aside, the way the form is structured suggests that funds are required to be dedicated to each of them, which is not the case, nor does it align with legislative intent. Additionally, other uses of state leadership funds do not require this level of specificity be reported.”

Department's Response: While we appreciate the commenters' input, no changes have been made. The Administration has prioritized serving students in the criminal justice system in career and technical education programs, including dedicating Perkins national activities funds to improve the outcomes and reduce recidivism rates for justice-involved youth and adults. Accordingly, it is necessary for eligible agencies to report on the amount of funds awarded to correctional institutions and juvenile justice facilities versus other types of institution, as well as report through the Consolidated Annual Report information collection (OMB 1830-0569) the eligible agency's major accomplishments through use of those funds. In addition, the presence of an optional line item in the budget table does not change the fact that this is an optional use of this set-aside.

## **V. STATE DETERMINED PERFORMANCE LEVELS**

Several commenters recommended that core indicator 1P1 be renamed “Post-program Placement” because “this measure is only supposed to measure placement after program completion, and by definition, would not include any students “retained” in the same program.”

Department's Response: We agree with the commenters and have made this change to Table 7: Section 113(b) Core Indicators of Performance in Section V: State Determined Performance Levels.

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### **Responses to Comments on the Supporting Statement for Paperwork Reduction Act Submission**

Several commenters reiterated concern that the Department estimated “zero” in “annual cost to respondents or record keepers resulting from the collection of information.” They indicated that the new requirements for a secondary CTE concentrator, new core indicators of performance, and new disaggregation requirements represent significant changes that will need to be made to State data systems.

Department's Response: We reiterate that there are no capital or start-up costs associated with this ICR. The cost and burden hours associated with performance reporting are addressed in information collection 1830-0569. The capital equipment needed to complete

the ICR, for example, is purchased as part of the state eligible agency’s “customary and usual business or private practices” and therefore must be excluded from this estimate. We also note that this estimate is consistent with estimates for other, similar ICRs for state plans and applications, including the consolidated state plan for many Elementary and Secondary Education Act programs (1810-0576), the unified and consolidated plan for Workforce Innovation and Opportunity Act and related programs (1205-0522), and the annual state application under Part B of the Individuals with Disabilities Education Act (1820-0030).