# Analysis of Maryland's Second Draft ESSA Plan

July 3, 2017

This document provides an analysis of Maryland's second draft of the Every Student Succeeds Act (ESSA) consolidated state plan to be submitted to the U.S. Department of Education (ED) in September. The second draft plan was released on June 27, 2017 and is available at http://marylandpublicschools.org/about/Documents/ESSA/MarylandsESSAConsolidatedStatePlan-DRAFT2.pdf. A survey related to state plan is available at https://www.surveymonkey.com/r/MDESSAConsolidatedStatePlanDraftTWO. There is a 30-day comment period. Comments may also be submitted via email to Mary Grable, Assistant State Superintendent, at mary.gable@maryland.gov.

The analysis and recommendations in this document focus on those issues most critical to subgroup accountability and to students with disabilities. The page numbers referred to in this document reflect the page number noted on the bottom of the pages of the draft plan, not the pdf page number.

**PLAN TEMPLATE**. On March 13, 2017, the Secretary of Education released a new template for states to use to submit their ESSA plan applications. The new template can be found on this webpage, along with other explanatory materials https://www2.ed.gov/admins/lead/account/stateplan17/plans.html.

**Meaningful stakeholder consultation in plan development**

The new template no longer requires a discussion of the steps Maryland (MD) has taken to meaningfully consult with stakeholders, including families of children with disabilities, in the development of this plan. However, we strongly encourage MD to add a section where this issue is discussed. On page 95, MD discusses its Family Engagement Plan and we hope it will be implemented fully. However, this does not address how the draft ESSA plan was developed.

**Assessments** (page 6)

Universal Design for Learning
States are required to develop their assessments using the principles of universal design for learning (UDL). Unfortunately, the March 2017 state plan template provided by ED does not require a discussion on how the state is meeting this requirement. However, that does not absolve the state from its responsibility to meet the UDL requirements in the law as it develops its assessments. A great deal of UDL language regarding assessments was eliminated from the first MD draft plan when this second draft was written using the new template.

Alternate Assessments
ESSA requires states to define "students with the most significant cognitive disabilities." This definition is to be used in IEP team guidance regarding which students meet the criteria for participation in the state's alternate assessment aligned with alternate academic achievement standards. Also, ESSA sets a cap on the number of students who may participate in an alternate assessment in the state at 1% of all students in the assessed grades (combined). While not a required part of the state plan, the MD plan should list the strategies the state will employ to not exceed the 1% cap on alternate assessments. Also, MD should create a process for stakeholder engagement when it develops its definition of students with the most significant cognitive disabilities, including input from parents and organizations representing these students. (Additional information on this is available in this NCEO document at https://nceo.umn.edu/docs/OnlinePubs/NCEOBrief12OnePercentCap.pdf).

It is critically important to ensure that the alternate assessment is used only for those students for whom the test was designed and field-tested and does not inappropriately lower achievement expectations for students who should take the general assessment. It is also important for the definition of students with the most significant cognitive disabilities to acknowledge that these students are working on the grade level content standards, even though the achievement expectations are not the same as for students taking the general assessment.

**Subgroups (page 9)**

The subgroups for accountability purposes in MD are Hispanic/Latino of any race, White, Two or More Races, Economically Disadvantaged Students, Students with Disabilities (SWD), and Students designated as English Learners (EL).

**Minimum Subgroup (N) Size (page 9)**

N size (minimum subgroup size) is critically important. If it is set too high many schools will not be held accountable for the disability subgroup because there are not enough students with disabilities at the school, (in the assessed grades for assessment proficiency and in the graduating class for graduation rate), to equal or

exceed the n-size. For example, if the state uses 30 for the N size, a school that has 29 students with disabilities in the assessed grades (e.g. grades 3-5 combined for an elementary schools) will not have to include the disability subgroup in any accountability determinations related to assessments. This means that the school will not be identified for targeted support and improvement for a consistently underperforming disability subgroup, even if that would have happened had the N size of 30 been met. Similarly, a high school with less than 30 students with IEPs in the graduating class will not be held accountable for the graduation rate of the disability subgroup.

MD currently has an N size of 5. As a result, the disability subgroup in almost every school is part of the accountability system. However, the draft plan proposes increasing the N size to 10. This is still a lower N size than most states, but the increase will likely impact the number of schools that won't have to include the disability subgroup in the accountability system. The plan includes a chart (below) showing how the N size of 10 impacts the percentage of schools that would not be accountable for the disability subgroup and the number of students with disabilities in the state that would not be part of the accountability system for assessment, **but there is no comparison data for the current N size of 5, nor is there any data about the impact of the N size of 10 on graduation rate. The increase in N size to 10 does not appear to have much of an impact on students with disabilities for assessments. However, there is a significant exclusion impact on other student groups. There is no information provided in response to the template question regarding how the state collaborated with teachers, principals, other school leaders, parents, and other stakeholders when determining such minimum number. The final plan should include all of this additional information.**

| | n = 10 | | | | | |
|---|---|---|---|---|---|---|
| **Student Group** | **Students Included** | **All Students** | **Percent Included** | **Schools Included** | **All Schools** | **Percent Included** |
| All Students | 432137 | 432176 | 99.99 | 1362 | 1371 | 99.34 |
| American Indian or Alaska Native | 10 | 1131 | 0.88 | 1 | 640 | 0.16 |
| Asian | 26075 | 28266 | 92.25 | 592 | 1145 | 51.70 |
| Black or African American | 142920 | 143782 | 99.40 | 1169 | 1340 | 87.24 |
| Hispanic/Latino of any race | 61789 | 63281 | 97.64 | 993 | 1328 | 74.77 |
| Native Hawaiian or Other Pacific Islander | 29 | 599 | 4.84 | 2 | 383 | 0.52 |
| White | 175537 | 176450 | 99.48 | 1053 | 1308 | 80.50 |
| Two or more races | 16335 | 18667 | 87.51 | 676 | 1190 | 56.81 |
| Special Education | 49163 | 49560 | 99.20 | 1292 | 1362 | 94.86 |
| English Learner | 18908 | 20939 | 90.30 | 455 | 1000 | 45.50 |
| Free / Reduced Meals | 184300 | 184475 | 99.91 | 1336 | 1367 | 97.73 |

**Long-term goals and timelines (starting on page 11):**

**Achievement.** The draft plan mentions that the current goal is "to decrease the percentage of non-proficient students by 50% in each subgroup by 2030." ESSA clearly requires that the long-term goals provide for **faster improvement** for those subgroups that are substantially behind in order to close the achievement and graduation gaps. Decreasing the non-proficient rate by 50% for each subgroup does not necessarily close achievement gaps. However, the example provided in the chart on page 12 (and below) does appears to narrow the gap. **A larger concern is that a 50% reduction in non-proficient students <u>over 14 years</u> (between 2016-2030) is not acceptable, especially when the goal by 2030 is to only to reach 54% proficiency in math and ELA for students with disabilities.**

| Student Group | English/Language Arts | | Mathematics | |
|---|---|---|---|---|
| | 2016 | 2030 | 2016 | 2030 |
| All Students | 39.34% | 69.67% | 33.76% | 66.88% |
| American Indian or Alaska Native | 34.49% | 67.24% | 26.19% | 63.09% |
| Asian | 66.24% | 83.12% | 67.26% | 83.63% |
| Black or African American | 23.85% | 61.92% | 16.26% | 58.13% |
| Hispanic/Latino of any race | 25.63% | 62.82% | 20.31% | 60.16% |
| Native Hawaiian or Other Pacific Islander | 42.23% | 71.11% | 36.26% | 68.13% |
| White | 52.93% | 76.46% | 48.71% | 74.36% |
| Two or more races | 45.34% | 72.67% | 38.54% | 69.27% |
| Students with disabilities | 8.52% | 54.26% | 9.31% | 54.65% |
| English Learner | 4.33% | 52.16% | 8.36% | 54.18% |
| Economically disadvantaged students | 21.61% | 60.80% | 16.64% | 58.32% |

ED has already advised one state – Delaware – that its goals, which are also based on a 50% gap reduction – are not ambitious enough. MD should take note of the June 13, 2017 interim feedback letter sent to the Delaware Dept. of Education (DDOE) by ED regarding the academic achievement goals set out in Delaware's ESSA state plan submitted to ED in April 2017. That letter states: "In its State plan, DDOE proposes to decrease the percentage of non- proficient students in each subgroup by 50% by 2030, which would result in no more than half to two-third of certain subgroups of students achieving proficiency. Because the proposed long-term goals for academic achievement are not ambitious, DDOE must revise its plan to identify and describe long- 5 term goals that are ambitious for all students and for each subgroup of students." (Full letter is available at https://www2.ed.gov/admins/lead/account/stateplan17/deprelimdetermltr.pdf)

**In our analysis of the first draft of the MD plan (available at** http://www.advocacyinstitute.org/ESSA/StatePlanAnalysis/Maryland.NDSC.AI.Ana

lysis-12-15-16.pdf), **we highly praised the commitment MD made that interim targets toward the goals would not be adjusted based on the subgroup's actual achievement across those years. Unfortunately, this commitment appears to be absent from this second draft of the plan. We believe that MD should set the same long-term proficiency goals for all subgroups and should make a commitment not to reset goals and interim targets downward when/if actual performance falls short of the targets. Re-setting targets for lack of progress renders the long-term goal meaningless.**

**Graduation**. Maryland has developed long-term graduation rate goals based on the four-year adjusted cohort graduation rate, and if applicable, the five-year (extended) cohort graduation rate (to capture those students who graduate high school in five years instead of four). These goals go through 2020. Schools and student groups not graduating at the state goal will have annual measurements of interim progress set toward reaching that goal by 2030.

**States may establish long-term goals and interim progress for extended-year cohort graduation rates as long as such goals are more rigorous than the goals set for the four-year adjusted cohort graduation rate.**

Annual Measurable Objectives - 4-Year Cohort Graduation Rate

| Subject Title | Student Group Subgroup | 2011 Baseline | 2012 2012 | 2013 2013 | 2014 2014 | 2015 2015 | 2016 2016 | 2017 2017 | 2018 2018 | 2019 2019 | 2020 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Grad. Rate | All Students | 81.97 | 82.70 | 83.42 | 84.14 | 84.87 | 85.59 | 86.32 | 87.04 | 87.76 | 88.49 |
| | American Indian | 75.93 | 76.99 | 78.05 | 79.11 | 80.17 | 81.23 | 82.29 | 83.35 | 84.41 | 85.47 |
| | Asian | 93.04 | 93.15 | 93.25 | 93.36 | 93.47 | 93.58 | 93.69 | 93.80 | 93.91 | 94.02 |
| | African American | 74.02 | 75.18 | 76.35 | 77.51 | 78.68 | 79.85 | 81.01 | 82.18 | 83.34 | 84.51 |
| | Hispanic/Latino | 73.44 | 74.63 | 75.83 | 77.03 | 78.23 | 79.43 | 80.62 | 81.82 | 83.02 | 84.22 |
| | Pacific Islander | 90.24 | 90.51 | 90.77 | 91.04 | 91.30 | 91.57 | 91.83 | 92.09 | 92.36 | 92.62 |
| | White | 88.27 | 88.65 | 89.02 | 89.39 | 89.77 | 90.14 | 90.52 | 90.89 | 91.26 | 91.64 |
| | Two or more Races | 93.42 | 93.51 | 93.59 | 93.68 | 93.77 | 93.86 | 93.95 | 94.03 | 94.12 | 94.21 |
| | Sp. Ed. | 54.72 | 56.95 | 59.19 | 61.43 | 63.67 | 65.91 | 68.14 | 70.38 | 72.62 | 74.86 |
| | EL | 56.98 | 59.09 | 61.21 | 63.32 | 65.43 | 67.54 | 69.65 | 71.77 | 73.88 | 75.99 |
| | FARMS | 74.11 | 75.27 | 76.43 | 77.59 | 78.75 | 79.91 | 81.07 | 82.23 | 83.39 | 84.55 |

Annual Measurable Objectives - 5-Year Cohort Graduation Rate

| Subject | Student Group | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Grad. | All Students | 84.57 | 85.15 | 85.72 | 86.30 | 86.88 | 87.46 | 88.04 | 88.62 | 89.20 | 89.78 |
| | American Indian | 78.01 | 78.95 | 79.90 | 80.84 | 81.78 | 82.73 | 83.67 | 84.62 | 85.56 | 86.50 |
| | Asian | 94.53 | 94.56 | 94.58 | 94.61 | 94.63 | 94.66 | 94.69 | 94.71 | 94.74 | 94.77 |
| | African American | 77.86 | 78.82 | 79.77 | 80.72 | 81.67 | 82.62 | 83.58 | 84.53 | 85.48 | 86.43 |
| | Hispanic/Latino | 78.15 | 79.09 | 80.02 | 80.96 | 81.90 | 82.83 | 83.77 | 84.70 | 85.64 | 86.58 |
| | Pacific Islander | 95.12 | 95.00 | 95.00 | 95.00 | 95.00 | 95.00 | 95.00 | 95.00 | 95.00 | 95.00 |
| | White | 89.65 | 89.94 | 90.24 | 90.54 | 90.84 | 91.13 | 91.43 | 91.73 | 92.03 | 92.32 |
| | Two or more | 94.73 | 94.75 | 94.76 | 94.78 | 94.79 | 94.81 | 94.82 | 94.84 | 94.85 | 94.87 |
| | Sp. Ed. | 60.94 | 62.83 | 64.73 | 66.62 | 68.51 | 70.40 | 72.29 | 74.19 | 76.08 | 77.97 |
| | EL | 66.64 | 68.21 | 69.79 | 71.37 | 72.94 | 74.52 | 76.09 | 77.67 | 79.24 | 80.82 |
| | FARMS | 80.24 | 81.06 | 81.88 | 82.70 | 83.52 | 84.34 | 85.16 | 85.98 | 86.80 | 87.62 |

**We believe that MD should set the same long-term graduation goals for all subgroups and should make a commitment not to reset goals and interim targets downward when/if actual performance falls short of the targets. Re-setting targets for lack of progress renders the long-term goal meaningless.**

**Indicators (page 19)**

Certain indicators will be used to provide meaningful differentiation between schools for the accountability system. How well or poorly schools do on the measures for these indicators (for all students and each subgroup) will determine if they are identified for comprehensive or targeted support and improvement. The indicators will also be the basis for the information that is reported for each school. Most of the indicators and their measures are required by ESSA, others are left to state discretion. These distinctions are critically important. States are required to add at least one indicator of School Quality or Student Success to the indicators defined by ESSA. These are referred to as the non- academic indicators. Although they are supposed to be linked by evidence to improved academic outcomes, they are not direct academic indicators like those required by the statute, which measure achievement, growth, graduation rate and English language proficiency.

**Academic Achievement indicator (page 19)**

ESSA requires states to have an indicator of academic achievement as measured by proficiency on the annual state assessments required by the law (math and reading/ELA). MD says half the score for the Academic Achievement indicator will be the percentage of students performing at the "met expectations" or "exceeded expectations" levels on PARCC (and the equivalent on the MSAA). The other half of

the score will be a performance index, equal to the average of student performance levels on PARCC assessments (or the equivalent on MSAA). This measure will be calculated and reported separately for ELA and mathematics, with ELA and mathematics equally weighted. **Proficiency is the only measure permitted by the ESSA for the Academic Achievement indicator. Using an index based on average scores can not be used to measure this indicator. MD must base the academic indicator on grade-level proficiency on state assessments.**

**Other Academic indicator (page 20):**
MD plans to measure student growth for the "other academic indicator" for elementary and middle schools. To do this MD intends to use student growth percentiles (SPG). SGP describes a student's academic progress from one year to the next compared to other students with similar prior test scores (called academic peers), when the tests are actually designed for comparing students to performance standards in a specific subject area. **Use of SGPs is highly questionable as reported in the research brief, Why We Should Abandon Student Growth Percentiles, by the Center for Educational Assessment at the University of Massachusetts Amherst (http://www.umass.edu/remp/pdf/CEAResearchBrief-16-1_WhyWeShouldAbandonSGPs.pdf ) The draft plan states that beginning in 2017-18, MD will study a growth to-standard measure for reporting and inclusion in the accountability system, in combination with SGP. Growth towards the standard is a preferable measure for public reporting and as a metric in the state's accountability system regarding student growth and should be used in lieu of SGP.**

MD also describes another indicator under this section called "credit for completion of well-rounded curriculum," which applies to elementary and middle schools. This measure will use scores from science and social studies assessments, but those assessments are not yet ready for inclusion in the accountability system. The wording of this section of the plan is confusing, but it seems to be saying that until these assessments can be used, the following measures will be substituted: the percent of students in 5th grade who pass social studies, fine arts, physical education, and health and for 8th grade the percent of students who pass mathematics, ELA, social studies, and science. **The first point we have to make is that ESSA is clear that a state may either use a measure of student growth for the "other academic indicator" OR use another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance. MD appears to be trying to do both, instead of selecting one measure for this indicator. Another, point is that the use of course completion in fine arts and physical education for 5th graders should not be part of an academic indicator.**

**MD also discusses an "other academic indicator" for high schools. However, ESSA only provides for this indicator in in elementary schools and secondary schools that are not high schools.** This high school indicator is called "Readiness

for Postsecondary Success" and could be used as a measure for the School Quality and Student success indicator, discussed later, but should not be considered part of the "other academic indicator."

**High school graduation rate indicator (page 22)**
MD plans to include more than one measure for the high school graduation indicator:
1. The four-year adjusted cohort graduation rate, and
2. Five-year adjusted cohort graduation plus rate

**We are very concerned about the five-year adjusted cohort graduation "plus" rate, because in addition to counting students who graduate in five years, it includes those who are still enrolled after five years. This is not permitted under ESSA. ESSA defines Four-year and Extended year cohorts at Sec. 8002 (25) and (23) respectively. While MD's argument for using a "five-year Plus ACGR is not without merit, the state must adhere to the ACGR definitions established in ESSA.**

**School Quality or Student Success indicators (SQSS) (pages 23)**
States are required to add at least one indicator of School Quality or Student Success (SQSS) to the indicators defined by ESSA.

MD plans to use chronic absenteeism, school climate (measured through surveys), and access to well-rounded curriculum (includes enrollment in fine arts and physical education and health in addition to other subjects). **We are concerned about indicators, like school climate, which use surveys as measures because of issues with the validity of the results.**

**As mentioned earlier, MD needs to move several measures proposed under the Other Academic Indicator to this indicator in order to comply with ESSA.**

**Annual Meaningful Differentiation of Schools (page 25)**

**MD states that it will use the following system for annual meaningful differentiation of schools in order to determine which schools need targeted or comprehensive support and improvement:**

Each school will receive an overall score (translated to a percentile rank) and category. To make the summative determination, the following steps will be taken:
(1) Each measure for all students and for each student group will be given a numerical score. .
(2) All measures in the accountability framework will receive a score. The results for 'all students' will be summed to a total score, out of 100 possible points. This total score will be given a percentile rank and category determination.

(3) For selected measures, an "equity gap" will be calculated from the student group results. MD is currently studying the appropriate methodology to ensure that the measures selected and the gap calculations are fair, meaningful, and clear.
(4) A school or LEA category determination based on the 'all students' will be adjusted based on the number and size of the equity gaps. MD is currently studying the appropriate "rule" to ensure that a school with significant equity gaps will be re-classified to a lower category.
Maryland will use a five-star system for the category determination. The methodology for assigning the stars is currently under study.

**It appears from the example on page 28 that subgroup performance will only be used to calculate an "equity gap" measure, but the methodology has not yet been determined. If equity is not met, the star rating may be impacted. There is insufficient information about how the equity gap impacts the final rating, but we are very concerned that MD is not including subgroup performance in the accountability system in a meaningful way. The impact of student subgroup performance should not be based on the gap between subgroups and thrown in as an add-on measure, but rather should be based on each subgroup's performance on every indicator in the general summative score. In order to sufficiently realize the purpose of ESSA – to close achievement gaps – the MD plan needs to put much more emphasis on subgroup performance in its differentiation of schools.**

**Weighting of Indicators (page 26)**

ESSA requires substantial weight be given to each academic indicator defined in the statute (Academic Achievement, Other Academic Indicator, Graduation Rate and English Language Proficiency) and that, in the aggregate, these indicators should have much greater weight than the SQSS indicator(s) selected by the state.

An analysis of the weighting chart is complicated by the fact that MD has included measures under Other Academic Indicator that belong under SQSS, as discussed earlier. If we calculate the weights of the indicators that in the aggregate should have much greater weight than the SQSS indicators, using only academic growth for the Other Academic indicator, the total for elementary and middle schools is only 55%. For high school the aggregate of the Academic Achievement, Graduation Rate and English language proficiency indicators equals only 45%. The postsecondary readiness should be considered one of the SQSS indicators. The aggregate weight of the federal academic indicators for high school is less than that of the SSQS indicators and clearly violates ESSA. We also believe 55% for elementary and middle schools should not be considered much greater weight. The MD legislature passed a law capping the aggregate percentage of these indicators. However, the cap is set at 65% so the percentages in the plan can be increased without violating that law.

**Identification of Schools (page 28)**

**Comprehensive Support and Improvement (page 28)**
ESSA requires states to identify for Comprehensive Support and Improvement (CSI):
- The bottom 5% of Title I schools. If the state elects to identify additional (non-title I) schools, it must ensure that the bottom 5% of title I schools are included in those identified.
- High schools that fail to graduate a third or more of their students. The regulations that were repealed in March 2017 required that the 4-year Adjusted Cohort Graduation Rate be used for this purpose. Without the regulations states are permitted to use longer graduation rates (e.g. 5 year), but it should be discouraged because it removes the emphasis on on-time graduation.
- Chronically Low-Performing Subgroup. Any Title I school identified for targeted support and improvement because of low performing subgroup(s) that did not improve over a state-determine number of years.

Lowest 5% of Title I Schools**:** The MD plan says it will identify the lowest 5% of schools of Title I schools, which is the correct application of the law. However, the MD plan states that only the Academic Achievement and Academic Progress indicators will be used to rank order the schools. ESSA requires the identification of schools to be based on the system of meaningful differentiation which includes progress in achieving English language proficiency. Therefore, ELP should be included in the identification of schools for CSI.

Public high schools failing to graduate at least one-third of their students: The MD draft plan provides that the 4-year ACGR graduation rate will be used to identify schools for CSI. We are pleased to see that MD is focusing on the 4-year ACGR for CSI identification, rather than including extended rates. This puts the emphasis on on-time graduation.

Frequency of Identification: ESSA states that schools must be identified for CSI at least once every three years. MD has decided to adhere to this minimum requirement whereas some other states are electing to identify schools more frequently

**MD's first draft plan included a commitment to compiling an annual statewide "watch list" of schools that are approaching identification for CSI to "provide each LEA with the early possible identification of schools which could lead to increased LEA support for improved performance to avoid future potential identification. We applauded this provision in our analysis of the first draft plan. Unfortunately it has been removed from this draft. Schools that are identified for CSI are in very dire circumstances so any effort to address issues prior to that point is critically important**

**Targeted Support and Improvement (page 30)**
ESSA requires states to identify for Targeted Support and Improvement (TSI):

• Any school with one or more consistently underperforming subgroups
• Any school in which one or more subgroups of students are performing at or below the performance of all students in the lowest performing schools (referred to as low- performing subgroups)

Schools with Consistently Underperforming Subgroups: The MD plan states that any school with one or more underperforming student groups that does not meet its annual targets over two years based on the academic achievement and academic progress indicators in the state accountability system will be identified as a consistently underperforming student group. **Identification should also include ELP and graduation rates.**

Schools with Low-performing Subgroups: The MD plan states that any school with one or more low performing student groups performing below the summative performance on the academic achievement and academic progress indicators of the "all students" student group in any of the lowest performing 5% of Title I schools will be identified for TSI. **Identification should also include ELP and graduation rates.**

Schools that do not meet the 95% assessment participation rate requirement: The MD plan states that any school that does not meet the 95% assessment participation rate across three years of data will be identified as a TSI school. **We applaud MD for adding this additional category of TSI schools.**

**Annual Measurement of Achievement –At least 95% Participation Rate Requirement** (page 31)

ESSA requires that at least 95% of all students in the assessed grades (and at least 95% of each subgroup - including the disability subgroup) must be included in the state's annual assessments. It is important to keep in mind the impact of the participation rate requirement on students with disabilities. A "non-punitive" approach would likely led to widespread exclusion of historically underperforming subgroups-similar to the situation that existed prior to the No Child Left Behind Act (which was replaced by the Every Student Succeeds Act).

**While we are pleased that MD is identifying any school that does not meet the 95% assessment threshold across three years of data as a TSI school, the failure to meet the participation rate for even one year should be factored into the accountability system in a meaningful way. Also, MD should make it clear that schools will be identified for a TSI plan not only for failing to meet the 95% participation requirement for all students, but also if the schools fails to meet the rule for any subgroup.**

**Exit Criteria (page 32)**

For low-performing schools identified for TSI, the exit criteria in the plan is described as follows:

**"TSI schools that no longer meet identification criteria, as established by Maryland's accountability system, will be eligible to exit. TSI school leaders will be required to develop action plans that contain measurable benchmarks toward meeting exit criteria. Action plans will be approved and monitored by the LEA. TSI School leaders must demonstrate that significant progress has been made toward meeting annual targets for two consecutive years prior to exit." MD should provide a more specific amount of progress needed to exit TSI.**

**School Conditions** (page 37)

State plans are required to describe strategies to reduce
- Incidents of bullying and harassment;
- The overuse of discipline practices that remove students from the classroom; and
- The use of aversive behavioral interventions that compromise student health and safety

The MD plan mentions Multi-Tiered System of Supports and Positive Behavior Interventions and Supports, but does not acknowledge the increased risk students with disabilities face with respect to the activities that negatively impact school conditions: (i) incidences of bullying and harassment; (ii) the overuse of discipline practices that remove students from the classroom and (iii) the use of aversive behavioral interventions that compromise student health and safety. The need to address disproportionality is mentioned in the plan. It is important for this issue to be addressed for students of color, but it is also important that it be addressed for students with disabilities. The MD plan lists some activities to reduce the use of aversive behavioral interventions, which has often been ignored by other states.

**This section of MD's plan should include a discussion of inclusive best practices to specifically improve school conditions for students with disabilities. In addition, a discussion of UDL should be added because it is aimed at accessible learning opportunities and reducing frustration that can lead to suspension and aversive behavioral intervention. This is just one of the many ways UDL can be used to improve MD state plan so that it supports an fair, equitable and high quality education for all students. Given MD's leading role in UDL implementation, we are disappointed that UDL is mentioned only once in this plan, rather than recognizing the many way it should be used to implement ESSA. For more information on UDL and ESSA state plans see http://www.udlcci.org/policytwo-pagerdraft-2-3-17-update2/.**

**School transitions (page 38)**
We are pleased to see a focus on students with disabilities in this section of the plan.

**Children and Youth who are Neglected, Delinquent, or At-Risk (page 45)**

In the section on Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk) there is no mention of students with disabilities. According to data from the National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth (http://www.neglected-delinquent.org) 29% of students served under Subpart 1 in MD in 2013-14 had IEPs and 37% of students served under Subpart 2 had IEPs. The MD plan should state specifically how it will ensure that students in such facilities are provided with special education and related services as needed, as well as how child find will be carried out.

**Supporting Effective Instruction (page 48)**

This part of the plan goes from page 48-56, but includes few mentions of students with disabilities. Most of what is provided in these pages has to do with process as opposed to focusing on the skills educators need to support effective instruction for all students. There is only one sentence referencing UDL, in spite of its importance in providing a fair, equitable and high quality education, which is the purpose of ESSA: "The State will provide opportunities and structures to collaborate and partner with the Institutions of Higher Education (IHEs) on professional learning needs, such as induction, cultural proficiency, Universal Design of Learning (UDL), Specially Designed Instruction, and behavioral improvement programs." There is also no discussion of the importance of inclusive best practices

**We encourage MD to build up this section with specific initiatives to address the skills needed to support effective instruction for all students. These should include an initiative to ensure educators have the capacity to implement inclusive best practices and a much more robust discussion of how teacher preparation, credentialing, and staff development will promote the level of UDL implementation that was expected when the MD UDL regulations were passed.**

**Student Support and Academic Enrichment Grants (page 57)**

The purpose of this program is to improve students' academic achievement by increasing the capacity of states, local educational agencies (LEAs), schools, and local communities to:

- Provide all students with access to a well-rounded education;
- Foster safe, healthy, supportive, and drug-free environments that support student academic achievement; and
- Increase access to personalized, rigorous learning experiences supported by technology.

Once again, there is no mention of implementing UDL, even though it helps provide access to personalized, rigorous learning experiences supported by technology; an element of this section of the law. Also, decades of research support the importance

of inclusive education for providing students with disabilities access to a well-rounded education. Yet, in spite of this research and the low rates of inclusion for students with intellectual disabilities in MD, the draft plan does not describe an initiative to improve access to a quality education in the general education classroom. In fact, there is no mention of students with disabilities at all in this part of the plan except in a reference to home-school communication. We encourage MD to address this in the next draft of the plan.

According to the MD 2016 IDEA Part B Data Display for students ages 6-21, the percentage of students with intellectual disabilities who are in the general education classroom 80% or more of their school day is only 14.6%, while the percentage who are in the general education classroom less than 40% of the day is 57.8%. A National Center and State Collaborative study shows that when students are being segregated from their non-disabled peers they have limited access to the grade-level general education curriculum.
http://www.ncscpartners.org/Media/Default/PDFs/Resources/NCSC%20LRE%20Article%20Exceptional%20Children%20EC%201670%20APA.pdf .

**Plan Coordination with other programs**

ESSA requires that the state plans coordinate with other programs, such those under the Individuals with Disabilities Education Act. (IDEA). MD has a State Systemic Improvement Plan (SSIP) for students with disabilities under IDEA. We were pleased to see that the first draft of the plan mentioned coordination with the SSIP, but we no longer see that reference in this draft. As part of its SSIP, MD's identified State Identified Measureable Result (SiMR) is to "increase the mathematics proficiency of students with disabilities in grades 3-5 in six (6) LSSs." The draft ESSA plan does not mention this goal, nor explain how the ESSA plan will help MD meet it. This omission should be addressed in the next draft of the plan.

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