



Analysis of Maryland's First Draft ESSA Plan

December 15, 2016

This document provides an analysis of Maryland's first draft of the Every Student Succeeds Act (ESSA) consolidated state plan to be submitted to the U.S. Dept. of Education in 2017. The draft plan was released on December 5, 2016 and is available at

<http://marylandpublicschools.org/about/Documents/DAPI/ESEA/MarylandConsolidatedStatePlanDRAFT1.pdf>. Survey related to state plan is available at <https://www.surveymonkey.com/r/MDCSP-Draft1>.

Comments may also be submitted via email to Mary Grable, Assistant State Superintendent, at mary.grable@maryland.gov.

Comments on this draft plan will inform a second draft, which is tentatively scheduled to be released in February 2017. Some required portions of the plan were omitted from this draft. You should request that all required portions of the plan appear in the next draft and that changes appear in redline. 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.

Citations are to [Final Regulation: Accountability, State Plans, and Data Reporting](#) and [Final Regulation: Assessments under Title I, Part A](#).

Long-term goals and timelines (starting on page 4):

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 5 does appear to narrow the gap. A larger concern is that a 50% reduction in non-proficient students over 12 years (between 2018-2030) is not acceptable. The chart on page 5 is confusing because it illustrates a 50% reduction in non-proficient students in six years, not 12 years. However, even six years is not ambitious enough, especially for students with disabilities. The statute states that for students who are behind, the goals must take into account the improvement necessary to make **significant progress** on closing statewide proficiency and graduation rate gaps. See this paper for information on goal setting: <https://edtrust.org/students-cant-wait/setting-goals-accountability>. One very positive commitment Maryland makes in this draft plan is that interim targets toward the goals will not be adjusted based on the subgroup's actual achievement across those years. Often states will lower the goals if students do not meet the interim targets instead of pushing ahead on plans to help the students meet the goals. Maryland's commitment to maintaining the targets is commendable.

Graduation. Maryland states it will develop 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). **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.** The charts provided in the plan indicate that this requirement is being met in Maryland.

Meaningful stakeholder consultation in plan development (starting on page 9): The Maryland ESSA external advisory committee includes representation from the disability community. That is fine as far as it goes, but disability organizations should be involved in all parts of the plan development. Stakeholder input meetings are expected to be scheduled soon. You should request that the notice for these meetings be widely disseminated. You can find information about the external advisory committee meetings and ESSA outreach on the bottom right of this webpage: <http://www.marylandpublicschools.org/about/Pages/DAPI/ESSA/index.aspx>.

Plan Coordination (page 13): The ESSA plan is supposed to be coordinated with other programs. We are pleased to see that the plan mentions coordination with the State Systemic Improvement Plan (SSIP), which every state must have under IDEA.

Alternate Assessment (page 27-28): Your state is required to define the term "most significant cognitive disabilities" in its guidelines for IEP teams. See recommendation for this definition on page 6 of the NDSC State Plan Advocacy Guide <http://www.ndscenter.org/wp-content/uploads/ESSA-State-Plan-Advocacy-Guide.pdf>. This guide also will help you understand a wide array of issues related to ESSA state plan development.

Parameters in the federal ESSA regulations for the state definition of students with the most significant cognitive disabilities are pasted below:
(The connection to grade-level state academic content standards is highlighted in bold).

“...a State definition of ‘students with the most significant cognitive disabilities’ that would address factors related to cognitive functioning and adaptive behavior, such that

- (i) The identification of a student as having a particular disability as defined in the IDEA or as an English learner must not determine whether a student is a student with the most significant cognitive disabilities;
- (ii) A student with the most significant cognitive disabilities must not be identified solely on the basis of the student’s previous low academic achievement, or status as an English learner, or the student’s previous need for accommodations to participate in general state or districtwide assessments; and
- (iii) Students with the most significant cognitive disabilities require extensive, direct individualized instruction and substantial supports to achieve measurable gains on the challenging state academic content standards for the grade in which the student is enrolled.”**

Although the alternate achievement standards on which the alternate assessment is based are supposed to provide “access” to the general education curriculum, ESSA also requires states that have an alternate assessment to promote involvement in and progress in the general education curriculum and not preclude students who take an alternate assessment from attempting to meet the requirements of a regular high school diploma. **This language that goes beyond “access” is very important and is a significant change from the past regulations on the alternate assessments.** It is also important to emphasize enrolled grade general curriculum in the plan discussion of the alternate assessment. Otherwise there can be a misunderstanding that the curriculum from other grades is what is meant by “grade-level” for these students. The federal regulations clarify this point about “enrolled grade.”

On page 27 the plans makes the following assertion: “The SEA regularly meets with Alternate Assessment Facilitators to share evidence-based and promising practices for students taking an alternate assessment based on alternate academic achievement standards. The Alt Facilitators serve as the SEA’s conduit for disseminating information to practitioners across the State.” If your child’s educators have not heard of the NCSC curriculum and instructional resources that are available to help students who take the state math and English language arts alternate assessments, you should question how effective this strategy has been.

Another important point regarding alternate assessments is that ESSA limits the number of students who can take an alternate assessment to 1% of all students

assessed (approximately 10% of students with disabilities). An appropriate definition of “students with the most significant cognitive disabilities” and strategies/accommodations policies to ensure the cap is not exceeded are important. You should request that these issues get addressed in the second draft of the plan.

Universal Design for Learning (UDL) (pages 21-22): The draft plan states that in 2012, the Maryland State Board of Education adopted the COMAR regulation, 13A.03.06, Universal Design for Learning, which requires local school systems to use UDL guidelines and principles in the development and provision of curriculum, instructional materials, instruction, professional development, and student assessments. You should request much greater detail about how school systems are meeting the requirements of this state regulation and how exactly the state assessments are incorporating UDL principles. For example, the draft plan simply makes the assertion that PARCC “employed UDL philosophy.”

Importance of indicators used to meaningfully differentiate between schools: 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, including a summative score. Most of the indicators and their measures are required by ESSA, others are left to state discretion. These distinctions are critically important.

Academic Achievement indicator (page 31) 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/English language arts). You should question Maryland’s combination of Achievement and Gap Narrowing since proficiency is supposed to be the main focus of this indicator. Gap narrowing might be better used as part of another indicator. Either way, the methodology discussed in the plan for gap narrowing may have to be adjusted.

The plan says that for the gap narrowing measure students would be assigned partial credit for moderate or partial performance below proficient and a higher point total for performance above the proficiency level. This methodology should be questioned given the final federal regulation at §200.14(b)(1)(ii), which provides that a state that chooses to recognize schools for the performance of students that are below the proficient level and, at its discretion, for the performance of students that are above the proficient level within the Academic Achievement indicator must do so in a way such that the credit a school receives for the score of an advanced student does not fully mask or compensate for the performance of a student who is not yet proficient. Some will argue that this is unfair to schools with high performing students. However, high performing students are not the focus of the accountability provisions in ESSA. **The purpose is to provide all children significant**

opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.

Academic progress indicator (page 32): Maryland is proposing to use two methodologies to measure growth as measures within this indicator. The first measures each student on his or her own performance from one year the next. The second method is to use student growth percentiles to measure a student against their academic peers. Maryland must demonstrate in its plan how these measures are valid, reliable, and comparable across all LEAs in the state and is calculated in the same way for all schools across the states except that measures of academic progress may vary by each grade span. (§200.14(c)(1-3)).

High school graduation rate indicator (page 32) Maryland is deciding whether to include more than one measure for the high school graduation indicator:

1. The four-year adjusted cohort graduation rate as required, and
2. Extended five-year adjusted cohort graduation rate

It is important to note that the statute and regulations are clear that ONLY the four-year adjusted cohort graduation rate can be used in the state's system of accountability for purposes of identifying high schools for comprehensive support and improvement. Maryland appears to be following this rule.

School Quality or Student Success indicators (pages 32-33): States are required to add at least one indicator of School Quality or Student Success to the indicators defined by ESSA. For elementary and middle schools the following indicators are being considered: chronic absenteeism, student engagement (measured through surveys), suspension, and teacher engagement (measured through surveys or attendance). You should be concerned about indicators that use surveys as measures because of issues with the validity of the results. For high school, Maryland is proposing College- and Career-Readiness measures in the School Quality and Student Success indicator. The plan lists these measures:

1. College Readiness -Advanced Placement exams (score of 3 or higher) or International Baccalaureate exam or Dual Enrollment or enrollment in Postsecondary education within 12 months OR
2. College Readiness- Career and Technology concentrator

For more information on the intricacies of selecting indicators of school quality or student success please see: [In Search of Unicorns: Conceptualizing and Validating the "Fifth Indicator" in ESSA Accountability Systems](#)

Subgroups (page 33): If Maryland plans to include former special education students in the disability subgroup for purposes of calculating the academic achievement indicator it must be noted on this page (§299.17 (b)(2)(i)). Since the topic is not discussed we are assuming that these students will not be included,

which is a good decision. In the next draft plan it will be important to check whether a section on including former students with disabilities is added.

Minimum Subgroup (n) size (page 33-34):

The 'n' size determines whether data for the disability subgroup will be reported at each school, how many schools will not be held accountable for the disability subgroup, and how many individual students with disabilities will be left out of the accountability system. If a school does not have a number of students with disabilities equal to or greater than the 'n' size in the assessed grades, many requirements of ESSA for the disability subgroup won't apply. For example, if the 'n' size is 30 and the number of students with disabilities in the assessed grades at a school is 29, the school will not be identified for a targeted support and improvement plan if the subgroup is consistently underperforming (as would be required in schools where the 'n' size has been met or exceeded).

Maryland 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. It is claimed that the 'n' size of 5 caused "confusing variability over time, privacy concerns, and situations where a few students made an unintended large impact." You should ask for evidence supporting these concerns.

A significant problem is that the draft plan states that Maryland will use an 'n' size of 30 for the graduation rate used in the college and career measure. However, the federal regulations are clear that **the 'n' size must be the same for all indicators** (§200.17 (a)(2)(ii)). The following studies support using an 'n' size of 10 or lower <https://nces.ed.gov/pubs2011/2011603.pdf> and <http://all4ed.org/wpcontent/uploads/2016/06/NSize.pdf>.

To fully understand the impact of the 'n' size you should ask data on the number of schools that won't have to include the disability subgroup in the accountability system at various 'n' sizes (such as 5, 10, 20, 30) in addition to the number and percentage of all students and students in each subgroup who will be left out of accountability for both assessment and graduation (this information is required to be submitted in the state plan by federal regulation §200.17). See the Ohio Department of Education's [Topic Discussion Guide](#) for examples of the data simulations for both assessment and graduation. Maryland should provide similar simulations. Decisions regarding 'n' size should be guided by these simulations and the state must attempt to use an 'n' size that will result in the most schools being held accountable, as directed by the federal regulations §200.17(a)(1)(ii).

Weighting of indicators for meaningful differentiation of schools (page 35):

The relative weights of the indicators are very important and Maryland fails to provide this information, saying that it will be provided when the accountability

model is finalized. This is a core component of the statewide accountability system and should not be left to a second draft.

We recommend that schools that would otherwise be identified for targeted or comprehensive support and improvement on the basis of indicators defined in ESSA, should not fail to be identified as a result of the state-defined School Quality and Student Success indicators. The concern is that these indicators may not be sufficiently connected to academic achievement. It is important to ask the state for evidence linking these state-defined indicator(s) to improved academic outcomes, evidence that the indicator(s) can be measured objectively, and evidence that the indicator(s) can be reported separately for each subgroup in each school across the state. It also is important that growth not count for more than academic achievement in the overall academic indicators. Growth that does not result in significant improvements in proficiency will not close achievement gaps.

95% Participation rule (page 35): This rule 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 assessed annually. We do not believe that a school should get a satisfactory rating in the accountability system if this requirement is not met. The draft plan does not provide a specific answer for how the participation rate will be factored into the accountability system; it only says that participation will be a “primary anchor.” This is not an acceptable answer and Maryland should be pushed to provide greater detail. Advocates should keep in mind the impact of the participation rate requirement on students with disabilities. An approach that involves few if any consequences for failing to meet this requirement would likely lead 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).

Identification of schools for comprehensive support and improvement (CSI) and exit criteria (starting page 36): There is no provision in the law for what happens to schools that have been identified for targeted support and improvement for years because of a consistently underperforming subgroup. It would be helpful to suggest that Maryland add these schools (e.g. schools that have had one or more consistently underperforming subgroups for 3 years) onto the list of schools that should be identified for CSI. ESSA certainly allows states to expand upon the schools identified for improvement. Also, all schools that need CSI may not be Title I schools. Therefore, a request that these supports not be limited to Title I schools is appropriate. Schools should not exit CSI until they no longer meet the criteria for identification. The draft plan appears to take this approach. Maryland should be applauded for the paragraph on page 37 in which the state commits 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.” Schools that are identified for CSI are in very dire circumstances so any effort to address issues prior to that point is critically important.

Identification of schools for targeted support and improvement and exit criteria (TSI) (starting on page 40): Schools are supposed to be identified for TSI under ESSA if even one subgroup is consistently underperforming or low-performing. We recommend that a school be considered “consistently underperforming” if it has not met the state’s long-term goals and interim measures for the subgroup for two consecutive years. Maryland’s definition appears to be in line with our recommendation. Schools should remain identified for TSI until they no longer meet the criteria for which they were identified (the draft plan is in line with this recommendation) or until they get identified for CSI, as was recommended previously. One area of concern is the statement on page 45 that if funds are available, Maryland may provide funding for TSI Schools. It is very shortsighted not to plan for funding to support TSI schools. This is inconsistent with the proactive stance Maryland is taking by creating the watch list of schools. Providing funds to support TSI schools will likely help some schools avoid the watch list or CSI identification. Also, all the strategies in the plan for school support seem to be aimed at schools identified for CSI. There should also be consideration of how to support schools identified for TSI.

Supporting Excellent Educators (starting on 65): There are decades of research on the importance of inclusive education on student outcomes. This section should include a discussion of how Maryland will build increased capacity for successful inclusion of all students with disabilities, including those who take alternate assessments. Maryland holds itself out as a leader in UDL implementation and recognizes that UDL improves education for all the various groups of students that are listed as needing support in ESSA. Considering Maryland’s leadership role with respect to UDL and the strong focus on UDL in its ESEA waiver, there should be much more detail in the plan about how UDL implementation will be used to support excellent educators. There are only two brief mentions of UDL on pages 72 and 74.

ESSA eliminated the “highly qualified” teacher requirements in IDEA for special educators. The statute only requires them to have a Bachelor’s degree, which can be in any subject. To address this issue “special education teachers” who are not prepared for such roles with research-based instructional strategies in special education teacher preparation programs should be considered “out of field teachers.” This should be addressed in the definition of out-of field teachers on page 75. Also, there should be data collected on the degree to which students with disabilities are taught by ineffective, out of field, or novice teachers. Under the draft plan this will only be done for poor and minority students because that is what is federally required. Maryland can and should do more.

Supporting all students (starting on page 93): Look through the strategies/programs that Maryland is suggesting and consider whether all students with disabilities are given opportunities to benefit from them. There are two mentions of UDL on pages 101 and 106, but no details. As discussed in the section

on Supporting Excellent Educators, in light of Maryland’s leadership role on UDL this section on Supporting all Students should include much more detail about how UDL has been and will be implemented. There also should be a discussion of increasing and improving inclusive opportunities for all students with disabilities, especially those who take alternate assessments.

On page 105, the draft plan says Maryland will provide professional development and training which reduce violence and bullying and harassment, the over use of aversive behavioral interventions including restraints and seclusion, and discipline practices which remove disruptive students from the classroom. However, the plan also says this is contingent on federal funding. These school climate issues greatly impact opportunities to learn and should be addressed with or without federal funding. There should be greater emphasis on inclusion, UDL, and positive behavioral interventions and supports (PBIS). All of these strategies will reduce time away from a well-rounded education. There also should be much stronger language against the use of restraints and seclusion, which are more likely to occur in segregated classrooms.

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