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# Education Advocacy Coalition

## for Students with Disabilities

January 6, 2012

Bernard J. Sadusky, Ed.D.  
Interim State Superintendent of Schools  
Maryland State Department of Education  
200 W. Baltimore Street  
Baltimore, Maryland 21201

Re: Elementary and Secondary Education Act (ESEA) Flexibility—Comments

Dear Dr. Sadusky:

The Education Advocacy Coalition for Students with Disabilities (EAC), comprised of approximately 30 organizations and individuals concerned with special education issues in Maryland, writes to offer preliminary input regarding Maryland's possible application to the United States Education Department for ESEA flexibility. We have both specific and overarching comments as follows:

**Stakeholder input:** We strongly urge the Maryland State Department of Education to circulate a draft application to all stakeholders enough in advance so that meaningful input can be provided. MSDE should allow 2-3 weeks for public review and comment and sufficient time for review of comments, revision and submission by MSDE. In order to solicit meaningful input, MSDE should meet with stakeholders and discuss the specific ways in which each group of stakeholders would be affected if the flexibility application is approved. The current meetings and powerpoint presentations being conducted by MSDE do not meet the stakeholder input requirement, as the presentations give no indication of what Maryland may do and there is no document upon which stakeholders may comment.

**Evaluation:** The EAC urges MSDE to indicate in its application that, if its flexibility application is approved, it is willing to collaborate with the United States Education Department to evaluate at least one program, practice, or strategy the SEA or the local school systems implement.

**Students with disabilities:** MSDE's overview should specifically address how the implementation of waivers and principles will enhance MSDE's ability and the ability of the local school systems to increase the quality of instruction for students with disabilities as well as improve their achievement levels.

**Principle 1: Transitioning to College-and Career Ready Standards and Assessments:**

MSDE should include in its application those activities related to universal design for learning that will ensure that all students will improve achievement and be able to transition to college and careers. These activities should include, but are not limited to, teacher preparation, professional development, the design of instructional materials, and the development of accurate and valid assessments.

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MSDE should provide current information regarding the number and percent of students taking the alternate assessment aligned to alternate academic achievement standards and the alternate assessment aligned to modified academic achievement standards. The flexibility request should include a plan for phasing out the modified assessment, since it must be phased out by 2013-14. MSDE should consider using an Alternate Assessment on Grade Level Achievement Standards (AA-GLAS) for students who cannot take the MSA, even with accommodations, but who could benefit from an assessment with a different format.

Additionally, given the concerns raised by many parents and others, including the 2011 Maryland General Assembly, about the Alt-MSA, MSDE should indicate in its waiver application how it intends to address the Alt-MSA and whether or not it will join one of the partnerships currently developing a new alternate assessment based on alternate academic achievement standards.

Maryland has been wrestling with incorporating the student growth model as part of its teacher effectiveness system. An increasing number of states are developing models to measure individual student growth, but most do not have models that apply to students who take alternate assessments. ***MSDE must commit to developing a valid model for measuring growth for all students, including those taking any alternate assessments. This model cannot be solely IEP-based. We encourage MSDE to solicit broad stakeholder input, including diverse families and advocates, in the process of developing such a model.***

#### **Principle 2: Developing Systems of Differentiated Recognition, Accountability, and Support:**

MSDE's plan to address quality of instruction and closing the achievement gap must include meaningful access to the general curriculum for students with disabilities. This has continued to be a challenge for local school systems in Maryland, and we find many students who are diverted to the Alt-MSA, not because they truly are the students with the most significant cognitive disabilities, but because their lack of meaningful access to the general curriculum has made their ability to perform well academically virtually impossible.

MSDE currently has an "n" size of 5. We understand the complexity of determining whether the "n" size should remain the same or be larger. We urge MSDE not to increase "n" size significantly; if the "n" size is larger than 20, significant percentages of students with disabilities will be excluded from meaningful accountability, particularly at the school level, according to research.

If MSDE plans to use multiple measures for accountability, the measures must not include use of the IEP goals. The IEP goals reflect the skills the student with disabilities needs to make progress in the general education curriculum. For students without disabilities, it is the progress in the curriculum, not the mastery of the goals needed to make progress in the curriculum, that is being measured. The same accountability tools should be used for students with and without disabilities. As we noted when commenting on the teacher effectiveness system, using the IEP as an accountability tool is flawed for several reasons. First, it assumes that the IEP is appropriate and being implemented effectively, something that is not always the case. Second, if used for accountability purposes, the IEP may be

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written by team members with lower expectations so that the student will more readily achieve the goals and objectives and thereby contribute to what appear to be better accountability numbers. Third, to the extent that an IEP reflects that a student is not working at grade level, IEP-based accountability moves away from grade level curriculum accountability and, therefore, from holding schools accountable for all students with the same measures. Additionally, The United States Department of Education Guidance on Alternate Academic Achievement Standards clearly states, in answer to Question B-5, that the IEP is not be used to meet NCLB requirements. See <http://www2.ed.gov/policy/elec/guid/altguidance.pdf> .

MSDE has specifically asked for input as to which option it should choose in setting annual measurable outcomes (AMOs). Option A would set AMOs to reduce by half the percentage of students in the “all students” group and in each subgroup who are not proficient within six years. The problem with this option is that so many students with disabilities are not proficient that cutting the number in half over six years would still leave many students with disabilities behind. Option B would set AMOs for 100% of students to achieve proficiency no later than the end of 2019-20. This option simply extends the timeline for another seven years, with no guarantee that proficiency will occur unless something significant changes. Option C would use another method that is educationally sound and results in ambitious but achievable AMOs for LEAs, schools, and subgroups. MSDE has offered no details as to what Option C might look like for Maryland, so it is impossible to provide comments. We hope that MSDE will share details as a draft is developed.

We would encourage MSDE to include in its application appropriate interventions for any school that has a subgroup or groups with low achievement or low graduation rates. The interventions should be used in all educational settings and be targeted to all subgroups, including students with disabilities. MSDE should consider graduation to mean leaving school with a high school diploma, not with any other kind of exit document. Additionally, MSDE should calculate graduation rates using the uniform rate currently required by ESEA regulations. Graduation targets for improvement should be disaggregated by subgroup and should provide accelerated improvement for subgroups with poor graduation rates in order to close the graduation rate gap.

In its discussion of how incentives and supports for other Title I schools will improve student achievement, close achievement gaps, and increase the quality of instruction for all students, MSDE should explain how the incentives and supports will benefit students with disabilities.

Finally, we urge MSDE not to move to a super-subgroup, an option being explored or proposed by a number of other states. It is critical for accuracy of targeted interventions and for accountability purposes that students who are members of more than one subgroup be identified and counted as a member of each subgroup.

### **Principle 3: Evaluating and Supporting Teacher and Principal Effectiveness**

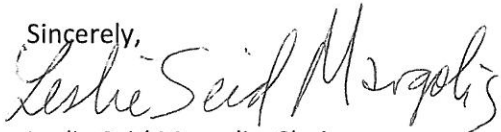
MSDE must ensure that the guidelines and policies it adopts will address evaluation and support of teachers and principals with respect to the skills and strategies needed to address the educational needs

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of students with disabilities, including the implementation of school-wide initiatives that benefit all students, such as Universal Design for Learning and Positive Behavioral Interventions and Supports.

Thank you for the opportunity to provide preliminary comments. We hope to receive a draft of MSDE's flexibility application.

Sincerely,



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