MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

Bernard J. Sadusky, Ed.D.
Interim State Superintendent of Schools

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TO: Members of the State Board of Education

FROM: Bernard J. Sadusky, Ed.D. BJS

DATE: December 6, 2011

SUBJECT: Federal Update

PURPOSE:

The purpose of this agenda item is to update the State Board of Education on federal legislation affecting education, child care, libraries and vocational rehabilitation and to discuss priorities for the second session of the 112th Congress.

BACKGROUND:

Federal Fiscal Year 2012 Appropriations:
Congress has not yet passed an appropriations bill for federal fiscal year 2012 which began October 1, 2011. The current Continuing Resolution requires a 1.5% percent across-the-board cut for all programs. Forwarded-funded education programs typically exempted from these types of cuts are included this year. Since Title I, Title II, IDEA and Perkins Career and Tech programs are already advanced-funded into FY12, the CR rescinds 1.5% from these education programs that were already appropriated last April as part of the FY11 Full-Year CR.

Action in the House:
In a **draft** budget bill released in early October by the House Appropriations Committee, several education programs were proposed for elimination. Overall the draft House plan reduces funding for the Education Department by $2.4 billion.

Six programs are increased:

- Title I grants to LEAS = +$1 billion (+6.9%)
- Impact Aid Basic Support Payments = +$35 million (+3.1%)
- Rural Education = +$25.5 million (+14.6%)
- Indian Education = +$5 million (+3.9%)
- IDEA Part B State grants = +$1.223 billion (+10.7%)
- Regional Education Labs = +$12.1 million (+21.1%)

31 programs are eliminated including, School Improvement Grants and Race to the Top.

Action in the Senate:
The Senate "marked up" an FY 2012 Appropriations bill. Under the Senate bill, the Department of Education sees an increase of $80.5 million (+0.1%).

Tydings Amendment Waiver
After being extremely vigilant trying to get all ARRA funds expended by the September 30, 2011 deadline, the US Department of Education decided to provide states an opportunity to request a waiver of the Tydings Amendment, if necessary, to **extend through September 30, 2012** the period **to obligate FY 2009 regular and ARRA funds** under several ESEA State-administered formula programs. MSDE submitted a request and received approval for the waiver for the following programs: Title I, Part A Grants to Local Educational Agencies; Title I, Part A Grants to Local Educational Agencies (Recovery Act); Title IIB,Math Science Partnerships; Title II, Part D Enhancing Education Through Technology (Ed-Tech) State Program; Title II, Part D Enhancing Education Through Technology (Ed-Tech) State Program (Recovery Act); Title III, Part A English Language State Grants; and Title IV, Part A Safe and Drug Free Schools and Community Grants.

Senate ESEA Reauthorization

HELP Committee:
On October 20, 2011, following a 12-hour marathon session, the Senate HELP Committee approved the Harkin-Enzi ESEA reauthorization bill on a bipartisan vote (15-7). Republicans Enzi (WY), Alexander (TN) and Kirk (IL) joined all committee Democrats in voting for the measure. See Attachment 1 for a summary of the major provisions of the Senate Committee bill.

Subsequently, on November 8, the HELP Committee held a hearing on the draft bill as a concession to Senator Paul who used a parliamentary maneuver to try to delay the Committee's markup and vote over his belief that Committee members did not have sufficient time to review the bill and because the Committee has not held any ESEA hearings since he took office. Although the bill has passed an important hurdle, the future of the bill remains murky at best. Committee conservatives left the mark-up skeptical of the bill's substantive provisions and the likelihood that their concerns would be addressed on the Senate floor. It is also not clear that the Senate leadership will be able to find time to fit floor action into the Senate calendar before next year.

Quote to Note: *"If Congress doesn't act now, our inaction will transform the U.S. Secretary of Education into a waiver-granting czar over an unworkable law that has identified what he says may be as many as 80,000 'failing' public schools, a development even worse than provisions in this draft that would make him a chairman of a national school board,"* Sen. Lamar Alexander (R-TN).

Senate Republicans:
Additionally, Senate Republicans released a series of five draft bills related to ESEA Reauthorization. In general, the bills reduce the federal role in education and provide significant flexibility to states and local school districts. The bills are as follows: The Elementary and Secondary Education Amendments Act of 2011; The Teacher and Principal Improvement Act of 2011; Empowering Local Educational Decision Making Act of 2011 (companion to the State and Local Funding Flexibility Act passed by the House Education and the Workforce Committee); Empowering Parents through Quality Charter Schools Act of 2011 (companion to the bill passed by the House Education and the Workforce Committee); and The State Innovation Pilot Act of 2011. Summaries are attached for your review (See Attachment 2).

Federal Priorities:
This Board has traditionally supplied their position on reauthorization and other federal issues in its Federal Priorities document which is submitted to the Governor's office and included in the Governor's submission to the Maryland Congressional delegation. The document is generally due to the Governor's Washington Office in December or January. To date, the Governor's Washington Office has not indicated whether the Governor will submit a Federal Priorities document to the Maryland delegation for the second session of the 112th Congress. The primary purpose of the document is to provide the State's earmark requests to the delegation and, as it is quite likely there will be no earmarks in the next budget request, the Governor's Washington office is currently asking state agencies to wait for further direction. However, as discussions related to ESEA Reauthorization continue in Congress and with the availability of the Senate Committee bill, the Board may want to discuss updating its specific priorities for Reauthorization. Excerpts related to ESEA Reauthorization from the past two federal priorities submissions are attached for your reference. (See Attachment 3).

ACTION:

For information and discussion only.

Attachments

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Attachment 1

Key Provisions of the Senate HELP Committee ESEA Reauthorization Bill
Titles I, II and III
Maryland State Board of Education
December 6, 2011

Title I

Accountability Systems

- By the start of the 2013-14 school year, states must design an accountability system that measures student achievement.
- There is no mention of Adequate Yearly Progress (AYP).
- The accountability system must measure 'continuous growth' for all students, toward achieving the standard of College/Career Ready (measured as the ability to enroll in college without the need for remediation).
- The accountability system must include English language arts, math, and science.
- For accountability purposes, the percentage of students with cognitive disabilities taking an alternate assessment cannot exceed 1 percent of the number of all students in the state.
- If the State chooses to use student growth as a measure of academic progress, 'adequate student growth' is defined in two ways. For those students who are on track to graduate college/career ready, adequate growth is a rate equal to at least one year's academic growth. For those students not on track to graduate college/career ready, 'adequate growth' is defined as a rate of academic growth in the subject that demonstrates the student will be on track to graduate college/career ready within three years.

Standards

- States have to adopt College and Career Ready content standards in reading/language arts and math by December 2013. Student achievement standards in the same subjects are to be adopted by the beginning of the 2015-16 school year.
- Student achievement standards will establish levels of performance: basic, on-track and advanced.
- States must develop science standards but will not have to submit them to the Secretary for approval. States can choose to use science standards as part of the state accountability system.
- States can adopt alternate standards for the 1% of students with the most significant cognitive disabilities.
- States have to adopt high-quality English proficiency standards by December 31, 2014.

Assessments

- SEAs must adopt and implement assessments aligned with College and Career Ready content standards in reading/language arts and math by the start of the 2015-16 school year.
- Assessments must be administered annually in grades 3-8 and at least once in grades 10-12.
- Assessments can be a single summative assessment or multiple statewide assessments over the course of the year.
- States must adopt and implement statewide science assessments for the start of the 2015-16 school year, and test at least once in each of three grade spans: 3-5, 6-9, 10-12.
- By the start of the 2015-16 school year, states will have to use their English Proficiency Assessment to determine English proficiency for all students in schools served by the SEA.

Parent/Community Engagement

- States receiving funds will have to demonstrate how they will use the funds to increase parent/community engagement.
- Includes a requirement that LEAs report on the professional qualifications of the teachers, including how many are licensed in the grade level/subject area they are teaching; how many are under provisional status; and the baccalaureate degree major of the teacher.
- 1% set aside for parent engagement.
- Requires annual evaluation of parent/family engagement plan assessing how much the activities improved student achievement and made participation easier.

Comparability

- The comparability calculation will now include teacher salary data (the calculation includes instructional and non-instructional costs; it excludes capital expenditures, the excess costs of providing services to student with disabilities, and the excess costs in providing service to English language learners).

School Improvement

- Beginning in the 2013-14 school year, States will identify Persistently Low-Performing schools (defined as the bottom 5 percent of high schools and the bottom five percent of elementary/middle schools) based on assessment data, graduation data (for high schools) and growth (if the state uses growth in its accountability system.
- For Persistently Low-Performing schools, LEAs must select from a list of 6 school improvement strategies, or a 7th strategy of their own design which must be approved by the Secretary.
- The strategies are:
    - Restart: The school is closed and then reopened as either a charter or a magnet, or close and reopen as a new school that serves the same grade levels.

- Closure: Close the school. Relocate students.
- Transformation: Replace the principal, require all teachers to reapply; require all hiring to be done at the school through mutual consent; and ensure that other schools in the LEA are not forced to accept teachers displaced from the school.
- Turnaround: Replace the principal; keep no more than 65 percent of teachers
- Strategic Staffing: Replace the principal (if they have served more than two years); allow the principal to staff the school with a turnaround team of their choice, including no more than 5 returning teachers (if an elementary school) or 20 teachers (in a high school); provide teacher/principal incentives.
- Whole School: Partner with a strategy developer offering a school reform program based on a moderate level of evidence (demonstrating the program will have a statistically significant effect on student outcomes, which includes more than 1 well-designed or well-implemented experimental or quasi-experimental study).

- Funds will remain available for five years for Persistently Low-Performing schools to do turn-around work, even if the school improves and is no longer identified as Persistently Low-Performing.

- States will also identify Achievement Gap Schools (defined as the 5 percent of high schools in the state and 5 percent of elementary/middle schools in the state) that have the largest achievement gaps among any of the subgroups used for disaggregation.
- For Achievement Gap Schools, the LEA will develop and implement a correction plan to improve the performance of low-achieving subgroups in order to close achievement gaps.

Blue Ribbon Schools

- States may elect to identify Blue Ribbon schools (defined as the top five percent performing).
- These schools will be eligible for increased autonomy over their school's budget, staffing and time.
- These schools will have the flexibility to use any ESEA funds for any allowable ESEA purpose. The flexibility is not available at the district level.

Secondary Schools

- There is a notable effort toward trying to ensure that more Title I dollars make their way into secondary schools. Ranking for the bottom five percent are now calculated at elementary/middle and high school groups, which will drive up the number of high schools that will receive school improvement dollars.
- The poverty trigger for high schools (50%) is lower than that for elementary/middle schools (75%).
- New competitive program, the Improving Secondary Schools Program, which aims to ensure students graduate from high schools on track for college/career readiness. It will serve Title I-eligible schools with a graduation rate below 75%, not listed as low-performing by the state, and not receiving school improvement funds. Will be awarded to partnerships between 1 high-need LEA and at least one external partner.

Title II

- Permits states and districts to decide whether/how to evaluate teachers.
- States and districts can apply for competitive Teacher Incentive Fund grants to support development, implementation, improvement or expansion of performance-based compensation systems.

Teacher and Paraprofessional Qualifications

- Paraprofessionals must have completed at least two years of post-secondary study, obtained an associate's degree (or higher) and demonstrate knowledge/ability to assist in instructing, reading, writing, mathematics, etc…

Title III

- Bill provides a two-year exemption from testing English Language Learners from the student's first arrival at the LEA. That is above the current one-year exemption.

dgl 11/28/11

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Attachment 2

Summaries: Senate Republican ESEA Reauthorization Bills

The Elementary and Secondary Education Amendments Act of 2011

Empowering State and local education leaders to improve public schools
Establishes College & Career Readiness Goal: States are asked to develop and maintain academic content standards and assessments that will prepare students for college- and career-readiness without interference by the Federal government about whether to work alone or in partnership with other states.

Empowers State and local leaders to develop their own accountability systems: Instead of a "One Size Fits All" Washington-approach, states will develop their own systems designed to ensure that all students graduate from high school college-and career-ready, without Federal interference or regulations on state standards, assessments, growth models for accountability, or how to develop teacher and principal evaluation systems that are based on improving student achievement.

Eliminates Adequate Yearly Progress (AYP): The Federal government is taken out of the business of determining if local schools and districts are succeeding or failing in educating their students by ending the Washington-based AYP system of how to identify schools.

Asks States to Identify the Bottom 5% of Lowest Performing Schools: States will be required to identify the bottom 5% of Title I receiving elementary and secondary schools, using their state-developed accountability system, and local school districts will be required to implement a school improvement strategy for their lowest performing schools. School districts will continue to be required to provide public school choice to students in these lowest performing schools.

Eliminates "Highly Qualified Teacher" Requirement: States will be freed from the onerous "Highly Qualified Teacher" requirements and empowered to maintain and improve their own teacher and principal licensure and certification requirements.

Maintains Public Reporting Requirements: States and local school districts will continue to report disaggregated data on student achievement, while requiring annual report cards at the school, school district and State level.

Reduces Paperwork & Federal Intrusion: The bill dramatically simplifies the Title I State plans that are submitted to the Secretary to reduce unnecessary paperwork and frees states from Washington interference.

The Teacher and Principal Improvement Act of 2011

Preparing, training, and recruiting effective teachers and principals to improve student achievement

Addressing State and local needs for teacher and principal training: States and local school districts will conduct a needs assessment to determine what professional development teachers and principals need to improve student achievement and then target resources to meet those needs.

Supports the State-led Development of Teacher/Principal Evaluation Systems: States and local school districts are empowered to develop their own teacher and principal evaluation systems that are based significantly on student academic achievement. The Federal Government would be prohibited from regulating or controlling those state and local evaluation systems, allowing local innovation and leadership to flourish.

Maintains Strong Reporting Requirements: States and local school districts will provide important data on the quality and effectiveness of teachers and principals, as well as the results of teacher and principal evaluation systems if developed, to inform parents and the community about who is teaching in the classroom and leading our schools.

Teacher Incentive Fund: Authorizes the Teacher Incentive Fund to provide competitive grants for states, districts, and partnerships with private-sector organizations to implement, improve, or expand comprehensive performance-based compensation systems for teachers and principals, while leaving broad latitude in how states develop such systems, as well as prioritizing high-need schools.

Encourages Innovative Private-Sector Involvement: Authorizes competitive grants for national non-profit organizations, such as Teach for America and New Leaders for New Schools, to help states and local school districts that have a demonstrated record with teacher or principal preparation, professional development activities, and programs.

Reduces Paperwork & Federal Intrusion: The bill dramatically simplifies the Title II State plans that are submitted to the Secretary to reduce unnecessary paperwork and frees states from Washington interference.

Empowering Local Educational Decision Making Act of 2011

State and local school districts, not Washington, D.C., are the best makers of educational decisions. Unfortunately, in the last few decades, the federal government, believing it knew best, has exploded the number of small, categorical education programs in K-12. Almost every year, yet another new program has been created in pursuit of the newest educational rave. And with each of these new programs, States and local school districts have lost flexible federal funding sources that allow them and not the latest fad to determine how best to allocate federal resources to meet the unique and specific needs of the individual students in their States and districts.

The Empowering Local Educational Decision Making Act of 2011 streamlines 59 programs into 2 flexible foundational block grants. Rather than Washington and the federal government determining funding priorities for States and local school districts, the Empowering Local Educational Decision Making Act puts locals in charge by allowing them the flexibility to fund locally-determined programs and initiatives that meet the varied and unique needs of individual States and localities.

Fund for the Improvement of Teaching and Learning consolidates **34** programs into **ONE** flexible, formula-driven **Fund for the Improvement of Teaching and Learning** to fund locally-determined needs and initiatives related to--

- Increasing the capacity of local school districts, schools, teachers, and principals to provide a well-rounded and complete education for all students.
- Increasing the number of teachers and principals who are effective in increasing student academic achievement.
- Ensuring that low-income students are served by effective teachers and principals and have access to a high-quality instructional program in the core academic subjects.

Safe and Healthy Students Block Grant consolidates **25** programs into **ONE** flexible, formula-driven **Safe and Healthy Students Block Grant** to fund locally-determined needs and initiatives for improving students' safety, health, and well-being during and after the school day by:

- Increasing the capacity of local school districts, schools, and local communities to create safe, healthy, supportive, and drug-free environments.
- Carrying out programs designed to improve school safety and promote students' physical and mental health well-being, healthy eating and nutrition, and physical fitness.
- Preventing and reducing substance abuse, school violence, and bullying.
- Strengthening parent and community engagement to ensure a healthy, safe, and supportive school environment.

Enhanced Flexibility through Funding Transferability

To provide additional funding flexibility to State and local school districts, under the Empowering Local Educational Decision Making Act of 2011 districts will be able to transfer up to 100% of their allocations under the Fund for the Improvement of Teaching and Learning and the Safe and Healthy Students Block Grant between the two programs or into Title I, Part A.

Empowering Parents through Quality Charter Schools Act 2011

This bill will modernize the Charter School Program by encouraging the expansion of high-quality charter schools and allowing charter school management organizations to receive assistance directly from the federal government.

- Modernizes the Charter School Program to address present realities for public school choice by incentivizing expansion and replication of successful charter models, providing support for authorizers, and enhancing opportunities for facilities financing.

- Encourages states to support the development and expansion of charter schools.

- Streamlines federal Charter School Program funding to reduce administrative burdens and improves funding opportunities for the replication of successful charter models and facilities assistance.

- Allows proven, high-quality charter school management organizations to apply directly to the federal government, as well as local education agencies, deleting a layer of bureaucracy with the State government.

- Facilitates the establishment of high-quality charter schools and further encourages choice, innovation and excellence in education.

- Supports an evaluation of schools' impact on students, families and communities, while also encouraging sharing best practices between charters and traditional public schools.

The State Innovation Pilot Act of 2011

The Bill clarifies waiver authority that is currently in ESEA. The clarified waiver provision authorizes state educational agencies and local school districts to submit a request to the Secretary of Education to waive any statutory or regulatory requirement of the law.

State and local Leadership: The bill improves the waiver authority currently in law by clarifying that the waiver process is intended to be led by state and local requests.

Deference to state and local judgment: If the Secretary chooses not to immediately approve a waiver request, the bill directs the Secretary to develop a peer review process that defers to state and local judgment on waiver requests.

Transparency: The bill ensures that the peer review process will be open and transparent so that it is clear what states and local school districts are asking to waive and what peer reviewers think about those waivers.

Prohibiting additional regulations: The bill prohibits the Secretary from imposing by regulation any additional requirements to waiver requests not authorized by Congress.

The Bill encourages states and local education leadership in developing and implementing innovative strategies in:

- College and career ready academic content and achievement standards for all public elementary and secondary school students;
- High-quality academic assessments that are aligned with and are designed to measure the performance of local educational agencies and schools in meeting those standards;
- Accountability systems that are based on those college and career ready standards, as well as other academic indicators related to student achievement; and
- Programs to improve principal and teacher quality and effectiveness.

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Attachment 3

EXCERPTS FROM FEDERAL PRIORITIES FOR PRE-K-12 EDUCATION

112TH CONGRESS – 1ST SESSION; FEBRUARY 2011

Reauthorization of the Elementary and Secondary Education Act:

The State of Maryland has fully supported the broad goals of the *No Child Left Behind Act* (NCLB). In fact, Maryland has embraced the role of standards-based reform in education for almost two decades, before the enactment of NCLB, by setting high expectations for all students and developing an assessment and accountability system, the quality of which has been recognized nationally for a number of years. Further, over the past several years, Maryland has invested unprecedented levels of state funding in public education as a result of the *Bridge to Excellence in Maryland Public Schools Act of 2002*. And now, as the recipient of a Race to the Top grant, Maryland has furthered its commitment to leading education reform in the nation, serving as a model for other states, by:

- Adopting state-developed college and career ready (Common Core) standards;
- Serving as a governing state in the PARCC assessment consortium developing robust, internationally benchmarked assessments aligned with the Common Core standards;
- Developing an enhanced data infrastructure;
- Improving educator evaluation systems in order to target professional development and place the best principals and teachers with the neediest students;
- Providing intensive assistance to the lowest-performing schools.

In order to support these reforms and innovations, we need a reauthorized Elementary and Secondary Education Act that invests in these state efforts and encourages innovation, evaluation, and continuous improvement so that Maryland can continue to develop and implement policies to help districts and schools dramatically improve student achievement, close achievement gaps and adequately prepare our students for the competitive global economy of the 21st century. The Maryland State Department of Education considers the following to be its top priorities for the Reauthorization of the Elementary and Secondary Education Act:

PROVIDE STATES FLEXIBILITY IN DEVELOPING ACCOUNTABILITY SYSTEMS:

NCLB requires 100% of students to be proficient in reading and math by 2014. As we approach 2014, and as the annual measurable objectives (AMOs) required to achieve Adequate Yearly Progress (AYP) edge closer to 100% proficiency, increasing numbers of schools are falling into school improvement status under this "one-size-fits-all" approach. Many of these are not schools

we consider to be "failing" but due to the arbitrary targets set under NCLB, almost all schools will be in improvement by 2014. Based on many discussions we have had with Congressional staff, other states and education advocacy groups, this is a provision that we believe will be and should be adjusted during reauthorization.

There is much discussion around the use of growth models to determine school success rather than an arbitrary goal that is the same for every school in the nation. We support the growth model proposals that have been discussed as possibilities for the reauthorization of ESEA and urge Congress to allow states the flexibility to design accountability systems that meet certain core principles (e.g., aligned to college and career readiness, focus on student achievement, annual assessments, disaggregated results), yet recognize the unique circumstances of the school systems within their states.

We encourage Congress to act quickly. This is a crucial time for education reform in Maryland and many other states. As we are transitioning to new standards, curriculum and assessments, we are concerned about the misalignment that will occur during the transition period. Some teachers are currently scheduled to transition to teaching certain aspects of the curriculum aligned with the new Common Core Standards on a limited basis beginning in school year 2011-2012. Full implementation is expected to be phased in over a period of three years, with full implementation by all teachers in all school systems by 2013-2014.

However, states, including Maryland, will continue to use their current assessments for accountability purposes until the new assessments based on the Common Core Standards are fully implemented, which is currently anticipated for 2014-2015. The new assessments are expected to be field-tested in school year 2013-2014. It is an imperative that we transition to the new standards and assessments in a manner that is fair and that will not negatively impact or inaccurately identify schools as low-performing.

PROPERLY ALIGN ESEA AND IDEA:

While schools recognize and support the need for high standards and accountability for **all** students, there are some fundamental issues that need to be addressed in the reauthorization of the Elementary and Secondary Education Act (ESEA) as it relates to students with disabilities. First, there is a major federal law that dictates all aspects of a student with disabilities educational program - from qualifications for identification to the implementation of a student's Individualized Education Program (IEP). The Individuals with Disabilities Education Act (IDEA 2004) requires that for a student to be identified and eligible for services, the student must have a disabling condition that has educational impact and requires the need for special education instruction. Thus, one can expect that most students with IEP's are demonstrating below grade level academic performance in the core content areas being tested. This is not congruent with the expectations of ESEA, which expects ALL students, including those with disabilities to achieve on grade level each year.

The expectations of IDEA and ESEA must be aligned and congruent. Decisions about educational programs for students with disabilities should be based on their Individualized Education Programs that are designed to ensure their achievement. Instruction and assessment

must be consistent with the IEP goals of the student with disabilities. Additionally, it is paramount that the student's achievement of the IEP goals is a component in measuring student success along with other accountability measures.

RECONSIDER IDENTIFICATION OF PERSISTENTLY DANGEROUS SCHOOLS:

The Maryland State Department of Education adopted state regulations intended to implement an unsafe school choice policy with rigor. Maryland's policy stipulates that a school will be designated "persistently dangerous" if for three consecutive school years the total number of student suspensions for more than ten days or expulsions for certain offenses (arson or fire; drugs; explosives, firearms; other guns; other weapons; physical attack on a student; physical attack on a student; physical attack on a school system employee or other adult; and sexual assault) equals or exceeds 2.5 percent of the students enrolled in that school.

In the years since *NCLB* was enacted, the Maryland State Board of Education has been facing the annual task of identifying persistently dangerous schools with increasing apprehension and serious reservation. Schools are an extension of the communities in which they are located. The persistently dangerous label is demoralizing to communities, school staff, students and parents. We hear anecdotal stories that principals are reluctant to suspend students in order to avoid the persistently dangerous label and, as a result, the very students who exhibit unsafe behaviors and actions remain in the school. Additionally, while the intent of the law is good, that is, to allow children attending unsafe schools to transfer to safer schools, very few families actually take advantage of the transfer option.

111TH CONGRESS – 2ND SESSION; DECEMBER 2009

Reauthorization of the Elementary and Secondary Education Act:

The State of Maryland has fully supported the broad goals of the *No Child Left Behind Act* (NCLB). In fact, Maryland has embraced the role of standards-based reform in education for almost two decades, before the enactment of NCLB, by setting high expectations for all students and developing an assessment and accountability system, the quality of which has been recognized nationally for the past six years. Further, over the past several years, Maryland has invested unprecedented levels of state funding in public education as a result of the *Bridge to Excellence in Maryland Public Schools Act of 2002*. The Maryland State Department of Education considers the following to be priorities for the Reauthorization of the Elementary and Secondary Education Act:

STRENGTHEN RESOURCES:

ESEA reauthorization must continue to support the work of state education agencies and local school systems including increased and continued funding for standards, assessments, teacher quality, data systems, accountability systems, and working in partnership with states to develop

research-based instructional programs and best practices. High standards cannot be met, and strict accountability measures have no meaning, until the appropriate resources are provided and the capacity of each school and classroom to meet the individual needs of children is increased. Provision of such funding would allow schools to closely monitor and support each child's progress in a way never before possible. This degree of individual attention would provide more equitable opportunities for all children. It would, in essence, level the playing field. This federally mandated educational initiative must be adequately funded and sustained in order to achieve the goal of this law. While the American Recovery and Reinvestment Act provided significant increases in education funding, these are temporary increases. States will need sustained funding to continue to make progress with their reform agendas.

RECONSIDER IDENTIFICATION OF PERSISTENTLY DANGEROUS SCHOOLS:

The Maryland State Department of Education adopted state regulations intended to implement an unsafe school choice policy with rigor. Maryland's policy stipulates that a school will be designated "persistently dangerous" if for three consecutive school years the total number of student suspensions for more than ten days or expulsions for the certain offenses (arson or fire; drugs; explosives, firearms; other guns; other weapons; physical attack on a student; physical attack on a student; physical attack on a school system employee or other adult; and sexual assault) equals 2.5 percent of the students enrolled in that school.

In the years since *NCLB* was enacted, the Maryland State Board of Education has been facing the annual task of identifying persistently dangerous schools with increasing apprehension and serious reservation. Schools are an extension of the communities in which they are located. The persistently dangerous label is demoralizing to communities, school staff, students and parents. We hear anecdotal stories that principals are reluctant to suspend students in order to avoid the persistently dangerous label and, as a result, the very students who exhibit unsafe behaviors and actions remain in the school. Additionally, while the intent of the law is good, that is, to allow children attending unsafe schools to transfer to safer schools, very few families actually take advantage of the transfer option. Most want their children to attend schools in or near the communities in which they live and/or have a deep respect for the history and the traditions that school has provided over the years. These neighborhood schools were often attended by the parents and other family members of the current students.

Further, Maryland is concerned about the lack of consistency in the designation from state to state. While NCLB requires states to label schools as persistently dangerous, it allows states sole discretion to establish the parameters for this identification. Many states have established parameters such that no schools have actually been identified as persistently dangerous, while Maryland has 4 such schools. The lack of national standards in this area and the varying degree of rigor in implementing this provision of *No Child Left Behind* leads to certain schools receiving this pejorative label while others that might actually be less safe proceed with business as usual. For example, all of the Maryland schools labeled persistently dangerous are located in Baltimore City which suggests that some jurisdictions are more impacted than others by the policy. Should the persistently dangerous designation stay in place in the reauthorized law, a national standard for identifying schools as persistently dangerous is necessary to advance the intent of the law for the benefit of all schools and the communities they serve.

PROPERLY INCLUDE EARLY CHILDHOOD EDUCATION AS A SEPARATE TITLE:

The benefits of high quality early childhood education are well documented. A total of 38 states have expanded prekindergarten services over the past 10 years. Early childhood education is considered part of the education continuum and the inclusion of early childhood as a separate title will support the administration's goal of integrating high quality early education as a key strategy to closing the achievement gap.

The title could be structured to serve two major purposes:

- Include provisions for states to require LEAs to initiate a strategic planning process to improve school readiness for traditionally disadvantaged students by addressing the areas of teacher quality, curriculum implementation, and comprehensive services, such as health and family involvement in programs serving preschool age children.
- Establish a fund program (from existing or new resources) to support LEAs to establish formal partnerships with early childhood programs, including standards defining teacher quality, curriculum, and assessment for the provision of high quality early childhood services. Require LEAs to strategically align high quality early education services in school attendance areas of high poverty and/or school improvement needs.

PROPERLY INCLUDE STUDENTS WITH DISABILITIES:

While schools recognize and support the need for high standards and accountability for **all** students, there are some fundamental issues that need to be addressed in the reauthorization of the Elementary and Secondary Education Act (ESEA) as it relates to students with disabilities. First, there is a major federal law that dictates all aspects of a student with disabilities educational program - from qualifications for identification to the implementation of a student's Individualized Education Program (IEP). The Individuals with Disabilities Education Act (IDEA 2004) requires that for a student to be identified and be eligible for services, the student must have a disabling condition that has educational impact and requires the need for special education instruction. Thus, one can expect that most students with IEP's are demonstrating below grade level academic performance in the core content areas being tested. This is not congruent with the expectations of ESEA, which expects ALL students, including those with disabilities to achieve on grade level each year.

The expectations of IDEA and ESEA must be aligned and congruent. Decisions about educational programs for students with disabilities should be based on their Individualized Education Programs that are designed to ensure their achievement. Instruction and assessment must be consistent with the IEP goals of the student with disabilities. Additionally, it is paramount that the student's achievement of the IEP goals is a component in measuring student success along with other accountability measures.

PROPERLY INCLUDE ENGLISH LANGUAGE LEARNERS:

English Language Learners (ELL) present special challenges to school systems within the context of *NCLB*. Depending on the level of English language proficiency attained, a student's

performance on English-only assessments may not portray an accurate profile of a student's actual gains or progress during the course of a school year. Furthermore, a large number of ELL students have had their educations interrupted due to war, poverty, political strife, mobility, or other factors prevalent in their countries. These aforementioned factors are often the reasons the students have immigrated to the United States to begin with. It is not unusual to encounter a student whose chronological age would place him in high school, yet his total years of formal schooling are limited, or not much beyond the third or fourth grade levels.

The above factors need to be taken into account in the reauthorization of *ESEA* and factored into any redesign of the accountability system for English Language Learners. First and foremost, ELL students must be able to meet a benchmark standard on an English, "academic" proficiency (not merely oral proficiency) assessment before participating in the State Assessment Program. English proficiency attainment can and should be a part of the total accountability process, and progress on English language attainment can and should measure how well a school is performing with this population of students.
Secondly, flexibility in designing accountability systems to measure progress of ELL students must be given to State agencies. If appropriate "qualifying" assessments are given to students, exemption from State assessment systems will satisfy the intent of the law.

Third, multiple measures of growth and achievement are essential for ELL students. Given the double handicap of low English proficiency and interrupted education, other measures such as a growth model, work sampling, or basic skills assessments in the native language could all serve to create a true picture of a student's actual progress.

Finally, with a growing immigrant population, research at the federal level related to English Language Learners is desperately needed. The use of native language instruction, native language assessment, and the appropriate time to include ELL students in state assessments are all hot-button issues and the available current research is quite disparate in conclusion.

SUPPORT DEVELOPMENT OF VOLUNTARY NATIONAL STANDARDS AND ASSESSMENTS:

The development of fifty sets of standards and assessments across the United States has led real innovation, state-level ownership of reform, and more clarity as to what should be taught and assessed. At the same time, fifty sets of standards have led to immense costs to states, charges of watered down standards, lack of instructional continuity for students moving from state to state, the inability to make valid comparisons across states to help develop policy, and the realization that standards should not be that different among states—algebra is algebra no matter where you live.

The need for national standards and assessments continues to grow clearer and clearer as we continue to move forward with school reform and as we face an increasingly competitive global economy. Maryland has signed onto the Common Core Standards Initiative sponsored by the Council of Chief State School Officers and the National Governor's Association. We fully support this state-led collaborative approach to developing standards, but also understand that the development of Common Standards is just the beginning of a rather arduous task. Further,

Secretary Duncan has reserved $350 million in ARRA funds for the development of assessments based upon the Common Core Standards. However, tremendous efforts will need to be made to provide teachers with substantial professional development opportunities in order for the standards to be taught with fidelity. Additionally, curricular and instructional materials will need to be developed that are aligned with the Common Core Standards and assessments. Federal financial and coordinating support would be extremely helpful in moving the Common Core Standards and assessment agenda forward and ensuring successful implementation across the country.

INCLUDE RESPONSE TO INTERVENTION (RTI) IN ESEA:

When Congress reauthorized IDEA in 2004, they changed the law about identifying children with specific learning disabilities. Schools will "not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability ..." (Section 1414(b)) Maryland was a state that relied solely on the use of the discrepancy model. *This change removed* the requirements of the "significant discrepancy" formula for learning disabilities classification based on I.Q. tests and requires that states must permit school systems to instead adopt alternative models including the "Response to Intervention (RtI)" model. Response to Intervention (RtI) is a pre-identification scientifically-based strategy. It is available as an instructional intervention strategy only to students who are not yet identified as eligible for special education. This is usually a "three-tier" system (beginning in general education and ending in referral to special education) that serves to identify students at risk for learning problems, provide early intervention, and reduce placement of students into special education due to instruction failures.

Specific learning disabilities (LD) are defined as:
...a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.
In attempting to avoid misdiagnosis or inappropriate diagnosis, the Act restates the exclusionary clause and references No Child Left Behind (NCLB) by restating that "lack of appropriate instruction in reading" cannot result in LD diagnosis. Nor can a student meet LD eligibility requirements if the determinant factor is diversity in a student's racial, cultural, and language background.

Since this is solely a regular education initiative implemented by regular education teachers, it is more appropriately included in ESEA, not IDEA. As currently written, RTI does not fall directly under the responsibility of a particular program at USDE and there is lack of implementation throughout the states due to this confusion and a lack of designated funding.

PROVIDE FLEXIBILITY IN SCHOOL CHOICE AND SUPPLEMENTAL EDUCATIONAL SERVICES:

Currently, students are eligible for school choice when their school has not made AYP for two years or more and for supplemental educational services (SES) after three years or more. As in most states, Maryland has found that students and their parents are taking advantage of SES at a much higher rate than choice. In fact, Maryland has the highest rate of SES participation in the

country. The reauthorized ESEA should provide states with the flexibility to determine the order in which choice and SES are offered or whether both options should be available to students after a school has not made AYP for two years. Providing states this flexibility may better serve students' needs and parents' wishes.

TEACHER PROFESSIONAL DEVELOPMENT:

NCLB needs to reflect the same high quality professional development message in Title I and throughout the statute. The reauthorization bill should:

a. Define high quality professional development *attributes* (see Maryland Teacher Professional Development Standards), rather than *activities* (workshops, or study groups for example). Emphasize focus on subject matter knowledge and instructional and assessment strategies.
b. Designate directed spending of Title I and IIA, B and D funds for professional development that meets the revised definition of high quality professional development.
c. Separate language for principal professional development from teacher professional development as both content and delivery systems are different.
d. Designate a specified portion of Title IIA funding to support comprehensive teacher induction programs at state and district levels (Model after The New Teacher Center at the University of California Santa Cruz).
e. Require a percentage of funds in (b) above (15%) to be spent on evaluating the impact of professional development on measurable teacher outcomes.
f. Do not include language requiring local school districts to jointly develop and submit applications with local teacher organizations. This could become problematic in interpreting that professional development must be negotiated. Instead, emphasize teacher involvement in planning, implementing and evaluating stages of major professional development activities.
g. Require stronger teacher preparation programs in institutions of higher education.

CONTINUE TO INCLUDE AN EDUCATION TECHNOLOGY PROGRAM IN ESEA:

Reauthorization of ESES must include the continuation of the Title II-D Education Technology (Ed Tech) Program. Budget cuts to this program over the past several years seem to indicate an assumption that this program is no longer needed and is being phased out. Although a significant amount of funding was provided for the Ed Tech Program in the American Recovery and Reinvestment Act, the President's proposed 2010 budget cuts the program for the fifth consecutive year, to $100 million nationwide from a high of over $700 million in 2002.

Most State and local technology funding is spent on infrastructure and data systems, leaving little funding available for curriculum integration, which is vital in preparing American students for success in the 21st century. Local school systems rely on the federal Educational Technology funding to supplement State and local funding. These funds have been instrumental in helping school systems integrate technology resources and systems with professional and curriculum development to promote research-based instructional methods, in supporting student academic achievement and in assisting all students in becoming technologically literate. The Title II-D Program has allowed school systems to: fund technology resource teacher positions to assist

other teachers in integrating technology into their classrooms; establish a purchasing consortium so that all 24 Maryland school systems have equitable access to online databases; provide online courses for students and teachers; develop student and administrator technology standards and tools to measure attainment of these standards, Maryland's Teacher Technology Standards, and other initiatives.

Without the continuation of the Education Technology Program, many teacher resource positions will not be funded, limiting teacher access to a technology coach/mentor who can provide high quality professional development; technology equipment purchases will dwindle, further widening the digital divide; and provision of content-specific resources and related professional development will be severely limited. There will be no funds for partnerships that allow local school systems, working in collaboration with the Maryland State Department of Education, to create systemic, innovative changes in teaching and learning through strategic technology initiatives such as: creating online courses aligned to the Maryland Teacher Technology Standards for educators; developing model STEM instructional programs; or providing open education resources and digital content aligned to Maryland and, in the future, to Common Core Standards. In addition, although previous State funding has helped to address infrastructure issues, school systems are struggling to maintain, improve and continue to acquire equipment and to create more robust networks to meet the growing technology needs of students, teachers and administrators. These challenges also impact the State's move to a 1:1 student to computer ratio for secondary schools, online testing, the growing demand for online courses for students and online professional development for educators. Continuation of the Education Technology Program is an imperative if American students are to be competitive in our increasingly competitive global economy.