January 24, 2017

Commissioner Mitchell D. Chester
Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148

Dear Commissioner Chester:

Youth On Board, the national Dignity in Schools Campaign (DSC), a coalition of over 100 organizations from 27 states dedicated to dismantling the School-to-Prison Pipeline, and the NAACP Legal Defense and Educational Fund, Inc., submit this letter regarding Massachusetts’ implementation of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA).

Our collective organizations were actively engaged in the crafting of ESSA. As stakeholder groups familiar with the law, we hope that you thoughtfully consider our recommendations. One of our key goals is ensuring that schools serving large concentrations of low-income, high-needs students receive the state, local, and federal Title I funds they need to provide these students with the additional resources and supports they require and to which they are entitled. We also encourage states to implement several key provisions related to school climate and safety and to craft strong state plans that will ensure the success of all students. Specially, we urge state officials to:

I. Ensure that a diverse group of students, parents and community stakeholders are meaningfully engaged throughout the ESSA implementation process;

II. Include school climate and safety in the state’s accountability system, and measure this indicator by using surveys and school discipline data;

III. Include positive school climates as a comprehensive support and improvement strategy and use ESSA funds to address school climate issues;

IV. Ensure accountability for the success of each subgroup of students, including students who self-identify as lesbian, gay, bisexual, transgender, and queer (LGBTQ); and

V. Ensure students involved in the juvenile justice system receive quality instruction and transition back into the public educational system.
1. Ensure that a Diverse Group of Students, Parents and Community Stakeholders Are Meaningfully Engaged throughout the ESSA Implementation Process

First, we urge Massachusetts to meaningfully engage students, parents, families, and other community stakeholders in the ESSA implementation process. Meaningful engagement of students, parents and stakeholders has been a cornerstone of the ESEA since its inception, however, truly inclusive and meaningful engagement has not always been a reality—especially for students, parents and stakeholders representing students from low-income or educationally disadvantaged backgrounds (e.g. students of color and students with disabilities). This occurs in spite of the fact that in a 1969 report by the LDF and the Washington Research Project, the authors noted: “[n]o educational effort can truly succeed apart from the community in which the students live.” 1 We echo this sentiment that, to ensure successful implementation of ESSA in Massachusetts, students, parents, families, and community stakeholders must continue to be meaningfully included throughout the implementation process. We believe that such meaningful involvement entails:

- Multiple opportunities for a geographically, racially, and socio-economically diverse group of parents and other stakeholders to provide input and feedback on the state’s plan, including through websites, public listening sessions, and meetings (with adequate notice held during evening hours);
- Diverse representation of students, parents and other stakeholders on any additional structures the Department uses to gather input on the state’s ESSA plan, including advisory groups, working groups, and other selected committees;
- Incorporation of stakeholder input into decisions throughout the implementation process;
- Transparency in the decision-making process, including by creating a mechanism for reporting to the community what feedback will be integrated into the state plan, what will not, and why; and
- Publicly posting information and updates throughout the implementation process, including making the state plan available for public comment at least 60 days prior to submission to the Secretary, which would give stakeholders time to ask questions about the plan to inform their comments.

In addition to engaging stakeholders in the development and drafting of the state plan, ESSA requires local educational agencies (LEAs) to conduct comprehensive needs assessments to identify and design interventions for schools identified as in need of improvement prior to receipt of federal funding from the state. 2 The law provides that this needs assessment include consultation with stakeholders, such as parents and community-based organizations. 3 We encourage the Department to remind districts of their obligation to involve stakeholders in conducting these needs assessments.

---

3 Id. at §1111(d)(1)(B).
2. Include School Climate and Safety in the State’s Accountability System, and Measure this Indicator by Using School Discipline Data and Surveys

We strongly urge the state to include “school climate and safety” as an indicator of school quality and student success as permitted by ESSA.\(^4\) According to data reported by the U.S. Department of Education’s Office for Civil Rights, during the 2011-2012 school year 47,595 students in Massachusetts experienced one or more out-of-school suspensions. Black students made up only 8.6 percent of the state’s population, but 18.7 percent of the students who received out-of-school suspensions were Black. 1,842 students in the state were referred to law enforcement, and 17.3 percent were Black students.\(^5\)

School disciplinary practices impact school quality and students’ educational success. There is ample research showing that positive school climates will increase several aspects of student success, including school attendance, academic achievement and graduation rates.\(^6\) Therefore, the Department should measure school climate by using school discipline data (i.e. in- and out-of-school suspensions, expulsions, and referrals to law enforcement) and student and parent surveys, in addition to any other indicator of school climate the state may select, such as chronic absenteeism. ESSA requires that states and school districts publish this school discipline data in annual report cards.\(^7\) Therefore, using this data to measure school climate would not be an added burden.

The Department should also develop a definition for positive school climate in consultation with parents and other stakeholders and include this definition in its state plan. For example, DSC’s Model Code on Education and Dignity urges states and LEAs to create a climate where “students feel socially, emotionally and physically safe, ... there is mutual respect between teachers, students, parents or guardians, and ... students’ self-expression and self-esteem are supported.”\(^8\)

3. Include Positive School Climates as a Support and Improvement Strategy and Target ESSA Funds to Address School Climate Issues

When a school is identified for support and improvement, ESSA requires the school district to work with community members to conduct a needs assessment and develop an improvement plan that includes evidence-based interventions.\(^9\) The U.S. Department of Education’s final regulations for accountability and state plans require districts to consider school climate in these needs assessments.\(^10\) The Department should remind districts of this obligation, encourage them to analyze indicators such as discipline data, and to include strategies to promote positive school climates in their improvement plans. These improvement plans should strive to reduce exclusionary discipline practices (e.g. suspensions, expulsions, and school-based arrests and referrals to law enforcement) and

---

\(^4\) ESSA, supra note 2 at §1111(c)(4)(B)(v)(II).
\(^7\) ESSA, supra note 2 at §1111(h)(1)(C)(viii).
\(^9\) ESSA, supra note 2 at §1111(d)(1)(B).
disproportionality in discipline across race, gender, and disability. The Department should also encourage schools and districts to include requests for funding to implement restorative practices and school-wide positive behavioral interventions and supports (SWPBIS) in improvement plan requests.

ESSA also requires states to describe how they will support districts to improve school conditions for student learning, including through reducing: incidences 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. We urge the Department to use ESSA funding to assist districts with improving conditions for student learning by providing meaningful supports, such as ongoing monitoring and technical assistance regarding the effective implementation of restorative practices, SWPBIS, and school-based mental health services.

4. **Ensure Accountability for the Success of Each Subgroup of Students, Including Students Who Self-identify as Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ)**

ESSA requires state accountability systems to capture and report the performance of all students and each of the following subgroups of students: economically disadvantaged; major racial and ethnic groups; students with disabilities; and English language learners. The law also requires states to determine, in consultation with stakeholders, the minimum number of students (n-size) that states will use for subgroup accountability and reporting purposes. We encourage the Department to set an n-size as small as possible, without revealing personally identifiable information about individual students, to ensure that student subgroups are not excluded from the state’s accountability system. There is research supporting a statistically sound n-size of 10.

We also encourage the Department to include students who self-identify as LGBTQ as a subgroup of students whose performance is measured due to the discrimination these students often experience, which could have a strong, negative impact on their academic achievement.

5. **Ensure Students Involved in the Juvenile Justice System Receive Quality Instruction and Transition Back into the Educational System**

Data show that many students end up in the juvenile justice system as a result of discriminatory or overly punitive discipline practices, such as referrals to law enforcement for minor infractions. The ESSA directs states that include requests for Title I part D funds in their state plans to establish procedures to ensure the timely re-enrollment of students who become involved in the juvenile justice system, including by ensuring opportunities for incarcerated students to take credit-bearing coursework with transferable credits that also leads to a regular high school diploma. We also recommend that the Department implement policies that will help facilitate system-involved students’

---

11 ESSA, supra note 2 at §1111(g)(1)(C).
12 Id. at §1111(c)(2).
13 Id. at §1111(c)(3)(A)(ii).
17 ESSA, supra note 2 at §1414(a)(1).
transition back into school by improving the quality of coursework offered in facilities and ensuring alignment with challenging state academic standards developed under ESSA. All students, including those who end up in the juvenile justice system due to discriminatory or overly punitive discipline practices, should have an opportunity to succeed.

We thank you for the opportunity to comment on priorities for implementation of ESSA in Massachusetts. We look forward to working with you and other stakeholders to ensure that ESSA is implemented in Massachusetts in a manner that promotes inclusion, achievement, and equity for all students.

Sincerely,

Rachel Gunther
Youth On Board
Rachel@youthonboard.org
(617) 306-3905

Natalie Chap
Dignity in Schools Campaign (DSC)
Natalie@dignityinschools.org
(646) 379-6499

Elizabeth Olsson
Monique Dixon
NAACP Legal Defense and Educational Fund, Inc.
(212) 965-2200

Ann K. Lambert, American Civil Liberties Union of Massachusetts
Kate Lowenstein, Citizens for Juvenile Justice
Matthew Cregor, Lawyer’s Committee for Civil Rights and Economic Justice
Marlies Spanjaard, The EdLaw Project, Children’s Law Center of Massachusetts, and Youth Advocacy Division of the Committee for Public Counsel Services
Janine Solomon, Massachusetts Advocates for Children
Phillip Kassel, Mental Health Legal Advisors Committee
Prof. Susan Maze-Rothstein, Northeastern School of Law

CC: Massachusetts Board of Elementary and Secondary Education
Carrie Conaway, Associate Commission, MA DESE