Magnet Schools Assistance Program
Pre-Application Webinar: School Integration
January 31, 2017

Jennifer Todd: Good afternoon, and welcome to the Magnet Schools Assistance Program fiscal year 2017 pre-application webinar. My name is Jennifer Todd. I'm the MSAP team lead. I'm joined by the MSAP program officers, Tiffany McClain and Justus Tuia. Today Mary Hanna-Weir and Richard Foster from the Office for Civil Rights will provide an overview of school integration strategies. We will answer any questions towards the end of the presentation. Richard.

Richard Foster: Thank you Jennifer. So as I previously said, although no one at that time could hear it, the overall agenda of today is to take a look at the legal landscape as it relates to your integration or desegregation strategies for reducing illuminating or preventing minority group isolation. We're going to go in a little more depth on examples of these strategies that folks can consider and undertake consistent with the legal landscape and then we'll provide some department of education resources and programs that might also help you in those regards. Some notes as pertinent to all of these webinars.

You may and are indeed advised to submit your questions via the webinar Q&A. Please just submit questions relevant to the topic being addressed by the current speaker. We do not guarantee to answer all questions but we can always follow up individually if you have other questions. If your questions are not addressed you can submit it as shown on the slide.

So the legal landscape. Let me back up just a little bit, not on the slides but mentally, we told you in the webinar last week that LEAs must assure as part of the MSAP Program both by statute and by regulation that they will not engage in discrimination based on race, color, or national origin, sex, disability, or religion, and employment. Student assignments of school's courses and instruction or extracurricular activities. These aren't on your current slides but they are on the slides that we showed you and they're still available, last week in Thursdays webinar.

So it is within that framework that I'm going to discuss some laws that do address discrimination based on race, color, national origin, sex, disability, and religion. The civil rights statutes from 1964 and subsequently Title IX. Title VI addressing discrimination on the basis of race, color, or national origin. Title IX addressing discrimination on the basis of sex. Section 504 prohibiting discrimination on the basis of disability are statues that OCR among other federal agencies have regular and formal jurisdiction over. But the MSAP jurisdiction, the MSAP assurance is actually broader than the statutes that OCR just normally, in over context, enforces. So that, for

example, the US Constitution in addition to the civil rights statutes also prohibits discrimination based on, among other things, race and national origin and such. With particular regards to sex discrimination Title IX, that OCR generally enforces, does not cover admissions to schools but does, none the less, address single-sex education. But the US Constitution and the MSAP assurances do address sex discrimination in admissions to schools as well as admission to individual courses or considering sex and student selection. And these are issues that may come up that we may need to discuss with you possibly in the course of assessing or vetting your applications.

So big picture ... This is going to be extra ordinarily big picture. Some of you have heard Mary or me talking of these things many times but we realized there's also some new folks on the line. So, the big picture is that if you're going to use race, individual race of the kid and select that kid for a program or for a course or for any benefit then the strict scrutiny, the so called strict scrutiny standard of review applies. And strict scrutiny ... And it means two things. One, you have to have a compelling interest and to the use of race in furtherance of that interest must be what's called narrowly tailored. And the standard is, as I said nothing new, this strict scrutiny standard has been applied in the MSAP context.

In the MSAP context at least sense fiscal year 1998 and in 1998 this was after the Cooper Adarand decision which you may still be able to see on your slide. The Adarand decision really articulated the strict scrutiny standard and applied it specifically to federal government programs. So this has been a fairly consistent application since, at least since that time. And at that time, and we still maintain the some thing, the reduction, elimination, or prevention of minority group isolation as set out in a magnet school statute and regulations. We adopted and acknowledged and continue to do so that, that interest is a compelling interest.

So that is the first, that is the first element of strict scrutiny. The second element of strict scrutiny, just to summarize briefly, is that your means to achieve the interest must be narrowly tailored. Again, this is if you're using an individual students race. There are other things that aren't subject to strict scrutiny which we'll talk about in a second. If you are, you have to consider race neutral alternatives. You have to consider other ways that you can do it that don't use a kids individual race. You have to minimize, undo burdens on students who aren't getting the benefit or a plus factor and you also have to keep checking periodically to see if you still need to use individual race.

As some of you know, the supreme court last year upheld University of Texas, Austin's use of individual race narrowly tailored use. In the Fisher case last June, really that's nothing new that's a continuation of the general

framework that we've been working under within this program at least the magnet school program for two decades. Many years.

Can we have the next slide, please?

So I mentioned race neutral alternatives that you have to consider whether race neutral alternatives would get you to achieve your objective before you resort to the use of individual race. And there's a whole array of race neutral alternatives or objectives that might, depending upon your demographics and the particular district, might help produce or may prevent minority group isolation without the use of individual race. Some of the most obvious are SES status individuals or the SES status of neighborhoods, such things such as household income, parental education, the nature of housing in particular areas, and there are other alternatives that are using individual race. But to be called generalized usage of race and that also are extraordinarily unlikely to trigger the strict scrutiny standard. But I don't believe they have in the context of this particular program to date so that strategically siting your schools, choosing the placements of your schools with a consciousness of what would result in terms of the racial composition of the school because of that site selection is one thing you could do. You could draw or redraw attendance zones with the general recognition of the demographics of neighborhoods. You can allocate resources in certain ways, which many magnet schools have done for many years. And you can, of course, as I think 100% of our districts that have been successful applicants in the past is they recruit students, to some extent, in a targeted fashion all to achieve their goals.

If you do feel after an assessment that the race neutral alternatives are not going to work to achieve your objectives, then consistent with the law, you can use individual, use of rights but it must be narrowly tailored as I previously discussed. Including periodic review and use of rights only to the extend necessary to achieve your compelling interest.

With that, I'm going to turn it over to Mary Hanna-Weir for a further discussion of more specific diversity strategies consistent with the legal landscape.

My apologies, I was trying to unmute myself unsuccessfully. I hope you all can hear me now. Thank you so much Richard.

We are going to talk about a variety of different kinds of strategies that you're school district or consortia might choose to use in furthering the diversity emphasis of the MSAP Program. While the legal discussion and many of our discussions are related particularly to racial diversity, obviously, the notice and binding applications include the priority that seeks to incentivize socioeconomic diversity and furthering racial diversity

and many, many applicants may also be considering other kinds of diversity.

We want to note for the record that all different kinds of diversity are certainly a piece of the puzzle that many of your projects might consider. We don't mean to narrow the focus too much. If you have questions about other kinds of diversity strategies, we're happy to answer those towards the end as well and that's part of the reason we point out towards the beginning, some of the other pieces of the legal landscape.

The big pieces of diversity strategies that we plan to discuss are open enrollment, control choice, intra-district and inter-district transfers, school siting both the choice of program and schools, and attendance boundary.

The open enrollment. This is a strategy that is used by a small number of districts that we're aware of. Many of you maybe. Where a school district, instead of having neighborhood attendance boundaries, typically would remove all attendance boundaries and allow every student to apply for any school in the district. Typically, that's paired with each school having some sort of theme or core identity, although not always. It may also be paired with a student selection process that has some sort of prioritization. For example, siblings getting a preference to go to the same school or children of employees at the school having a preference to go to that school. Sometimes though, we've seen student selection processes that are first come first served or an entirely random lottery.

In general, when you are looking in the research and examples out there in the world of diversity strategies, open enrollment is typically reserved for discussing times when there is not a weighted lottery other than perhaps the absolute priorities with siblings. If you add other diversity weights and strategies to the process, it typically then moves into the category of controlled choice.

Open enrollment as a strategy isn't necessarily going to work in every community, but in some communities, such a strategy would achieve the diversity goals that you have for your project. We want to make sure to highlight it, even though it typically has less of a diversity focus and more of a school choice focus in implementation.

Controlled choice is a big broad umbrella term for a lot of different kinds of diversity strategies. We'll talk about a few of them in this webinar. In general, control choice systems assign students to schools by both considering their families school preferences and the diversity goals of the district. Many control choice strategies include a weighted student selection lottery, weighted on a variety of different kinds of diversity goals. We'll talk about a few of those, often paired with a strategy of

designating all schools in a district or perhaps all schools within certain zones of the district as schools of choice. Rather than having all students assigned to neighborhood schools and then small numbers of students being able to choose other schools.

Controlled choice can encompass simple strategies such as giving a preference to students from specific neighborhoods to come to a school far away from those or if the district still uses neighborhood zones, using those who are zoned for a particular school as a preference to go to a different school. It can also include slightly more complicated strategies such as in a district with neighborhood zones, dividing their elementary school zones into 3 groups based on the demographics of those zones. Such as based on the socioeconomic demographics or based on the racial demographics. Giving students from each of those 3 clusters different ways in a school choice lottery different ways to increase the odds of the school they get into being more diverse. Not considering the individual students demographics but rather the demographics of the elementary school neighborhood zone they are from.

Slightly more complicated strategies are also potentially within controlled choice. We've seen some school districts, including some in the MSAP Program divide the entire district into small grids and assign a score for each grid based on the demographics in that neighborhood or grid. Those might include the socioeconomic status based on parental education or the socioeconomic status based on household income or based on the type of housing. The number and percentage of students who are English learners. The number and percentage of students who are students with disabilities. And also considering the race and ethnicity of each grid. Then giving students from each grid a numerical score based on the composition of the grid and weighting that in the student selection lottery.

A controlled choice strategy could also consider the individual students' demographics, so long as you were consistent with the legal restrictions that Richard laid out regarding the use of individual races and narrow tailoring, but also consistent with the US Department of Agriculture's guidance on the use free and reduced price lunch data if you were to use that individual student data. We've seen some school districts do things of this nature within the context of the MSAP Program because the US Department of Agriculture considered the Magnet Schools Assistance Program to be a federal education program using individual data on free and reduced price lunch data is an acceptable, non-consensual release of the data. Considering the long term longevity of your program, when you are no longer an MSAP grantee, you would fall back to the knee deep aggregate data only as you may consider whether or not that works for you.

There are also ways to get consent to use the data. In your school choice application, you could ask questions about students socioeconomic status and you may choose to ask questions that way in order to get consensual data on students socioeconomic status to use in an individual way in a lottery system.

Interdistrict transfers are increasingly popular amongst the applicants we see for this program. In general, there has been a lot of interest nationwide on partnering amongst districts, keeping in mind that many district lines were drawn a long time ago and they have contributed to residential segregation both socioeconomic and racial segregation. The use of interdistrict transfers could be formalized in a consortia of LEAs through a formal partnership. We've seen a number of those, particularly with a regional approach where a program that might be more resource intensive, such as career and technical education or a focus on aeronautics or robotics. Something where it would be expensive and too resource intensive for one school district to pull off, to partner with neighboring school districts and allow students to all attend that one school through a school choice selection, and by making strategic partnerships with neighboring districts you may increase the likelihood that the school is more diverse.

We've also seen some in the controlled choice-type situation of prioritizing interdistrict transfers over perhaps other rates in the lottery if those other districts would increase the diversity of the school. In that instance, sometimes it's been a formal partnership and sometimes that's been a choice on the part of the home district deciding that that's who their trying to attract and (unintelligible) it's consistent with state and local law to allow for that they didn't necessarily need a formal partnership.

In larger district especially, we've seen some creative strategies on intra-district transfers particularly in geographically sprawling districts or districts with pockets of racial or socioeconomic isolation. So, we've seen both through the magnet school lottery the selection process and also just more generally across a school district diversity plan to incentivize intra-district transfers to get kids to go outside of their neighborhood zone.

We also wanted to highlight (of folks) are planning their applications and thinking about school siting questions. Some of the ways in which diversity might be a focus about strategies (unintelligible), so choosing which magnet program goes in which school considering, for example, whether kinds of students are more likely or less likely to bear the burden of transportation. I think most families value a shorter transportation commute and so the extent that the burden of transportation can be shared amongst different kinds of families and not fall disproportionately on

people of color or disproportionately on students with low economic status that may increase the likelihood of the success of your diversity strategy.

Also, I think many school districts are facing sort of changing demographics in their district and so the may need a new school in a new area and fewer schools in what used to be a population center that maybe is no longer. But if you can consider in those decisions of sort of where you place new schools and where you close old schools, those strategic decisions can help increase the success of the diversity strategies and goals of the district.

Further, we do want to encourage school districts to consider diversity and how you draw neighborhood attendance zone. In the context of this program, we know that many of the magnet schools here have a neighborhood zone, where automatically students from that attendance zone and then you're speaking to recruit others through a choice process or maybe they don't have an automatic admission but they have some preference in the magnet school selection process. By considering the demographics of the zone and sort of where your boundaries may be, you may further the diversity goals of the project.

And finally, I think from keys to success in -- I think many, many school districts try a lot of different strategies, and what we see as some of the distinctions between those that are successful and those that are great ideas but fall flat are those that have been more successful really spend time and energy in ensuring parental involvement in getting that community buy-in and understanding sort of what the community wants and that you can create an amazing, fantastic, school and use some really innovative strategies to recruit and retain students. But, if you don't have parental buy-in and you don't have community buy-in, you built it but they didn't come. And so that -- a continual process of reevaluation and revising of your strategies and thinking about what's worked and what hasn't and why and also real strategic consideration of transportation. I know in the past, there's been a restriction on the use of MSAP fund for transportation and now the grant can be used for transportation cost but it needs to not be a significant portion of the grant. And you have to think about the long-term sustainability of that transportation.

But, that long-term sustainability of transportation was something that all MSAP grantees and school districts pursuing diversity have always needed to think about. And so I think you can learn from the community of past grantees and the community of school choice, (so generally) about transportation strategies that work and to think about the fact that the transportation burden should be shared amongst the community and not continually fall on the same kinds of families over and over.

The Department has put up a number of resources that might be helpful to you all as you think about what kinds of strategies will best serve your district and our communities. First of course, there's guidance from the Office of Civil Rights on the civil rights laws and restrictions, and you may consider we have guidance on the voluntary use of grades, some of which Richard has already discussed. We also have guidance on single sex education in classes that you may find useful if that's something that you're school district is considering.

Also, the Department has put a significant amount of time and energy and resources into assisting school districts who wish to pursue diversity on -- and particularly regarding socioeconomic status, and we have that website here as well. Earlier in January, we put out a report/guidance on different kinds of diversity strategies with a particular eye towards socioeconomic diversity. That's what this Improving Outcomes for All Students Strategy (and Considerations) to Increase student Diversity Report is. It's available on that website. But most of those strategies would work equally well for reducing and eliminating preventing minority group isolation. And if your district is considering an even broader definition of diversity, then many of those strategies would work well in that context as well.

We also wanted to highlight a few other grants and sources of resources for you all as you put together your MSAP application and consider strategies both for the grant and for your district more generally. Obviously, there are a lot of resources from the MSAP competition this year and then prior competitions, some of the TA webinars and some of the other information available from the MSAP Center. The Department funds Equity Assistance Centers, who have expertise in diversity strategies. Those were recently re-competed and there are new awardees. There are four equity assistance centers. They're regionally based. They are a wonderful resource for school districts to think about how to promote diversity, how to deal with sort of challenges that may come along the way. And in our most recent competition, the equity centers have now demonstrated experience and expertise in socioeconomic diversity in addition to their typical race and sex expertise.

The Opening Door to Planning Opportunity Grant is a grant program competition about socioeconomic diversity for school improvement grants, and there are a number of resources available for that program that might be relevant to you all. Additionally, the investing in innovation development grants this past cycle included a priority for diversity, and so there are some resources. And also the folks who are apply for and may be receiving those are themselves demonstrating expertise in diversity strategies. And so those folks out there in the world may be of use to you as well.

And finally, the charter schools program has a priority for diversity and so there's some resources on the Department's website as well as from those awardees who might be useful in your own context.

Again, if you have OCR-related questions first, we're going to have some time for questions in just a moment. But, after this webinar if something comes up, you're welcome to contact me. Here's my contact information especially related to the magnet schools program. If you have more general civil rights questions, you can find a lot of information on OCR's website. You can also contact the Regional Enforcement Office serving your district and the contact information can also be found on our website listed here.

So, now is the time in which we can answer some questions, and feel free to ask whatever you have using the Q&A section of the online platform.

So, we had a question from my contact information again, so I'm going to go back to that slide. We're still question and answering.

So one question we have is table 5 asked for us to describe our student selection process. Can you please define what automatic means in this context as well as weighted? So, different school districts have used different terminology along the way and so I think it just kind of depends on how it makes sense for you to describe it.

What we typically mean by automatic is an absolute priority, so some (unintelligible) processes have a absolute priority for siblings. So, they run their lottery, but siblings are sort of considered first. And they all get in so long as there's space, and if that fills up, then the end. Nobody else gets in. Or with a neighborhood zone an automatic preference or an absolute preference would be either you don't have to apply at all to go to the school. You're automatically enrolled based on your address, or if you choose to go to the school, then you have a preference about everybody else. And so the folks who are within that sort of absolute priority are considered first and if and only if there is space after that will other students be potentially selected.

Somebody asked where the recorded webinar will be placed on the website. Since the webinar from last week is not yet up, I'm going to defer to the Department, who I think you can't currently see it, but hopefully it's still online.

Jennifer Todd: Yes, I'll answer that question. The website -- the link to the website, which includes the presentation and the recorded webinar will be available on our website some time today or tomorrow and also on the MSAP Center website. After each presentation, please allow two to three business

days for all the requirements that have to be met before they're posted, so check back frequently and those links will be provided on our website as well as MSAP Center website.

Mary Hanna-Weir: We have another question about guidance on student selection for dual language programs that want to use the 50-50 language split. Very good question. As a general matter, if the preference is based on language proficiency in English or say Spanish, if you're doing a dual English-Spanish program, then that's typically considered to be fine and something that we find to be permissible. If you're thinking instead of sort of what is your home language or something that might be closer to a proxy for national origin status, then it would need to be -- we would need to think a little bit more carefully about that and work with you in terms of the extent to which it might fall closer to needing to sit into the (unintelligible) tailoring scrutiny box. And so, obviously from across the world might be equally proficient in English. There are students from all over the world who have high levels of proficiencies in mandarin and so based on proficiency in the language then that's typically permissible.

So for clarification on our website that Jennifer was just mentioning, she was mentioning the Office of Innovation and Improvement's magnet site as well as the MSAP Center, the technical assistance contractors', website. And that's where you'll be able to find recordings of all of these webinars as they -- once they've sort of cleared all of the hoops of making sure that folks with disabilities can equally access them.

There's a question about partnering with other districts, but I'm not really sure what the question is asking. So, if that person might be willing to write in with a little more detail, we can try to answer your question.

And then another question is can a district define isolation as a combination of race and low income. Your district defines minority group isolation however you want to a large extent so long as it is consistent with Title VI and other civil rights laws. As a general matter, the regulations for the program do define minority group, so you may want to consult those.

We have seen districts that have done program measures related to reducing and eliminating or preventing minority group isolation that tracks those race and socioeconomic status. I'm sure whether we've seen districts define isolation based on those race and socioeconomic status, and so we would have to consider sort of on a written case by case basis whether or not that works. But, it's something that you can think about doing I believe. Richard do you have anything more on that one?

Richard Foster:	Yeah. Thank you and in the interest of the ever (unintelligible) transparency goal, we here in headquarters can't actually see the questions. But, yes let me must add the -- under the statute and regulations, you can have broad and diverse goals but it has to have the -- essential the racial component in terms of (unintelligible) isolation the definition there (unintelligible) etc. So, that has to be an integral piece. I don't think (they're the same in contrary) but I just wanted to emphasize that.
Mary Hanna-Weir:	Right, and thank you for -- (Deb) for writing in with more clarification on your question about working with other districts. Both LEAs and consortia of LEAs are eligible for the grant, and so Deb's question was are grants given to one district inviting students in from another district or do the two districts have to work together on the grants (or diversity plan). The answer is both. We've had certainly both, and I think that that will probably continue. The question for you all the school districts on whether or not to enter into a formal partnership has more to do with how you want to structure the grant application and also questions of state and local law as to whether or not, for example, you can accept inter-district transfers without memorandums of understand between the districts. We are not your lawyers and can't tell you that part.

So, there have definitely been grantees that are just one school district applying for the grant and receiving it that have partnerships with other districts set forth in their grants, and then there are others that are formal consortia of districts. Both are eligible for MSAP funds. I don't know Jennifer if you have anything more to add to that. |
| Jennifer Todd: | No, not at this time. |
| Mary Hanna-Weir: | Great. And then we have another question. If a magnet school is changing selection procedures, does table 5 provide current or new future procedures? In general, I think that we're expecting your table 5 to reflect the student selection process you plan to use if you were awarded the MSAP grant. If there's a possibility that that may change during the time of the grant, then that should be made clear through table 5.

I'll pause for one more minute to see if there are any other questions.

So, we don't see any other questions at this time that are not repeats and so obviously please free to use my contact information that's here on the screen. I'll leave it here for one more moment and then I'll switch over to the contact information for the MSAP team. Contacting either of us is fine. We'll put you in touch with the other if your question is better suited for the other office. |

Jennifer Todd:	Mary, I'm going to circle back to the question about the LEAs and the consortia of LEAs working together to refer to Section 75.128 of Edgar. We do recommend that the districts work together if they are going to have a formal agreement to sign assurances. So, each LEA should -- we recommend that they sign assurances because each member is bound by every statement assurance made by the applicant and application. So, the governing boards of whoever has the governing authority should sign off on the assurances from each district.
Mary Hanna-Weir:	Thanks Jennifer, very helpful. I'm going to one further question about automatic versus absolute priorities. Again, we don't need to introduce confusion at all. Different school districts actually use different terms to mean the same thing. What we meant by an absolute priority in this instance would be that if a student applied and meets the criteria for the absolute priority then they are simply admitted to the school, plus they mean that there is capacity. That would be as opposed to a weighted priority where they are given more likely of being chosen through a selection process but aren't necessarily guaranteed admission. And automatic student selection typically refers to you don't even have to fill out an application. And that's usually reserve for students who are in a neighborhood-intensive zone or students who are continuing on from say an elementary to a middle school in the same (theme). Some school districts have decided that you don't actually need to submit an application. You're just automatically enrolled in the middle school continuing the theme. That's up to you.
	Many school districts who apply for this grant don't use automatic or absolute priorities at all, and some make judicious use of them. So, it depends on what works for your program and your district goals and what will work in your community to ensure parental involvement and community buy-in.
Jennifer Todd:	Mary, I'm going to ask that (cross talk -- unintelligible) being clear about that is what's most helpful during peer review and (unintelligible) about what type of priorities you are giving so there aren't any assumptions on our part of the peer reviewers or (unintelligible) part.
Mary Hanna-Weir:	Absolutely. Clarity is really helpful.
	Well, thank you all. I think those are all the questions that we see at this time and so we really appreciate your time and attention. And I'll turn it back over to Jennifer for any closing remarks or logistics.
Jennifer Todd:	Thank you Mary. Our next pre-application webinar on evidence will be presented by the Department of Education's Institute for Education Sciences on Thursday, February 2, at 1 PM Eastern Standard Time. Our

final pre-application webinar next week on logic models will be presented by Community Science on Tuesday, February 7 at 1 PM Eastern Standard Time.

On behalf of the MSAP Team we thank you for your interest in the program and look forward to the next webinar. Thank you.

END