

*Washington Update*⁸

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Conservative Fordham Foundation Calls for Abolishing Textbook Adoption Process and/or Radically Reform Processees Currently Used in 22 States

The conservative Thomas Fordham Foundation, headed by Dr. Chester Finn, has published “The Mad, Mad World of Textbook Adoption” in which it recommends that the process be disbanded or radically reformed because “There is no evidence that textbook adoption contributes to increased student learning. In fact, the vast majority of adoption states are also in the bottom half of all states when it comes to NAEP reading and math scores...Meanwhile textbooks are almost never field tested to gauge whether they are effective in raising student achievement.”

In the Foreword to the report, Finn argues that everyone who has analyzed the adoption process has found it does “far more harm than good.” It is sustained by the “pure self interest” of the “textbook publishing cartel (though not the small ‘boutique’ houses)” and vested interests of political pressure groups on the left and right and state officials and bureaucracies whose very existence “hinges on the adoption process.” Noting that NCLB judges education practices in terms of increasing student achievement, Finn argues, “the fact that few textbooks are

subject to any sort of independent field testing of their educational effectiveness is not only a scandal and an outrage, it clearly violates the spirit of NCLB, which places a premium on methods and materials that have been *proven* to work. I’m usually loath to suggest further Federal involvement in K-12 education, but Congress should seriously consider legislative action here, perhaps requiring instructional materials paid for with federal dollars to prove their efficacy, which would make life less pleasant for textbook adoption states.” Later on, the report recommends that USED’s What Works Clearinghouse fund new research centers to “appraise textbook effectiveness” and that the current situation by which USED asks “publishers to conduct their own field trials should be dropped.” Moreover, it notes, “To date, however, most ‘effectiveness research’ presented to textbook buyers and adoption committees consists of publisher-sponsored trials of their own instructional materials. Few surprises here: publishers typically find that their own books work well.”

The report also recommends that “adoption state officials should drop policies and practices that discourage small, high-quality publishers from competing in the textbook market.” Such barriers to competition include requiring publishers to post performance bonds, to provide large numbers of free book samples, to stock state book

depositories, and to publish frequent revisions.

In the introduction section, Diane Ravitch, former Assistant Secretary of Education and author of the best selling book, "The Language Police" argued there is no "natural ally in the fight against corruption of textbooks...I argued for a free market in the world of textbook publishing, where decisions about which books to buy were made by individual teachers or schools, not by state agencies." Referring to the American Association of Publishers (AAP), which she felt would be in the "forefront of freedom to publish and therefore prepared to oppose a process that allowed state bureaucrats and political pressure groups to demand revisions of content," she stated, "Unfortunately, I was wrong...The AAP, sadly, uses its considerable clout to protect the adoption process in the big states that benefits a very small number of publishing giants and disadvantages a large number of small publishers who simply cannot afford to meet the expensive requirements of the process and to break into the textbook market."

And last, picking up on Finn's suggestion, the report recommends, "Congress should consider modestly expanding federal funding to assist states in purchasing effective instructional materials in math, science and history -- as it has with the 'Reading First' program. But funds should only be provided for the purchase of materials shown to be effective in increasing student achievement." Ironically, most of the "interventions" that are on USED's "unofficial" Reading First lists,

or state Reading First lists, are textbooks which claim to have most or all of the "essential elements" of scientifically-based reading interventions included in the National Reading Panel report and USED guidelines for Reading First. The recommended actions for the What Works Clearinghouse (i.e., conducting independent pilot tests and allowing only research from independent parties and not from publishers who fund or perform field trials) would require significant USED policy changes. For a copy of the report go to www.edexcellence.net.

Association of American Publishers Holds First "English Language Learner" Summit: Highlights and Implications

The Association of American Publishers, Education Division, (AAP), held its first summit on issues related to limited-English-proficient students or English Language Learners (ELLs) which was attended by several hundred representatives of large and small textbook and some supplemental publishers. Below are highlights with implications for many TechMIS subscribers.

Associate U.S. Deputy Secretary of Education, Kathleen Leos, who served on the Dallas Independent School District Board of Education, along with Sandy Kress, Chief Bush Architect of NCLB, provided an update on certain aspects of English language acquisition activities across the country. As far as the Office of English Language Acquisition within USED is concerned, no state has completed the content-

curriculum-and-standards alignments for English Language Learners and, while there is no specific date mandated under NCLB for a deadline when ELL assessment and accountability infrastructures are in place, she noted that most states have targeted Spring 2006 as their deadline. As we predicted in the two previous TechMIS reports, there still exist opportunities for firms with instructional and assessment applications and programs which could target ELL programs.

Leos noted that 19 states have experienced a 200 percent population growth in ELL student enrollments over the last ten years, with about 80 percent of all ELL learners speaking Spanish as their native language. About 43 percent of eighth grade Hispanic students were below “basic” on the NAEP and, in math, 58 percent were below “basic.” In large urban districts, only eight percent of ELLs read at grade level. On several occasions Leos emphasized that Title III is designed to help LEP students meet English Language Proficiency standards, while Title I is designed to help LEP students achieve academic standards while they are developing English language proficiency. In the area of professional development, she noted that only 18 percent of all teachers of ELLs meet the highly-qualified teacher requirements and that slightly over 40 percent of all teachers have at least one LEP student in their classroom.

After presentations by leading researchers in the area of ELL, the publishers heard from practitioners at both the district and state levels. Most of these practitioners addressed teachers’

needs and concerns as well as ideal content, teacher strategies, and textbook design for use with English language learners. Most agree on the following features:

- short, high interest stories and a few “big ideas”
- explicit or direct instruction which generates active participation of students
- targeted instructional and assessment strategies
- use of more illustrations relating to concepts being presented and usage of contextual clues
- suggested learning activities/projects for the different learning styles

Some of the strengths of electronic media were also presented including:

- software which uses graphics, color, video, and sound appropriately and allows user control;
- appropriate computer-managed instruction which provides effective and appropriate feedback.

Policies and trends from four large states with large LEP enrollments were also presented. Robert Leos, Senior Director of Textbook Administration within the Texas Education Agency, reported that LEP enrollment increased almost ten

percent to 700,000 this school year of which about 73,000 students also are receiving special education services. He noted that new textbook adoption rules will likely be announced in February and that FY 2005 State funding will be in place. He encouraged publishers of algebra texts which are available in Spanish to consider seriously Texas adoption because the demand is so great in this area that the State is likely to select a math text (Spanish version) even though it doesn't meet all of the proclamation specs. He also reminded publishers that, if their textbook has not been adopted by a State, districts can still purchase the products and receive a large amount of reimbursement from the TEA.

Jan Mayer, who heads the Title III English Language Acquisition program for California, provided a comprehensive overview of the types of programs districts can provide for ELLs who are usually identified by the level of their English proficiency and parent desires. She reported that approximately 150,000 bilingual teachers will be "authorized" to provide instruction to ELLs by 2004. The Governor recently signed off on a new line item providing \$30 million for supplemental materials for English language learners or about \$25 per student. Materials must be correlated with the State's ELL standards. When asked, she also confirmed that California will continue to follow the exemption it received in its Assessment and Accountability Plan that allows limited-English-proficient students' scores to be counted as part of that subgroup for AYP until he or she has passed the California English

Language Development Test three times over three years. She indicated that some ELL student scores may continue to be counted after they have "exited" the ELL state program for five or six years if they don't pass the California English Language Development Test for three subsequent years.

Ileana Sotolongo of Dade County, who is also chair of the Florida Instructional Materials Selection Committee, noted that the next Florida adoption cycle for ESOL, grades K-12, will begin with specifications and criteria available in June 2006. Instructional materials evaluation criteria include content, presentation, and learning related considerations. Some of the design features based upon how children best learn languages which she encouraged publishers to include in their submission, are:

- Providing meaningful situations and allowing students to interact with those around them;
- Learning language by using it rather than following rules;
- Passages which provide for risk taking is encouraged and errors are allowed;
- Relying on a variety of experiences and forcing students to make choices and decisions.

As a former immigrant who, in 1980, enrolled in Dade County Schools without any assessment of her knowledge in areas such as math and science in her native language (Spanish),

she boasted that not one district in the State of Florida was identified this year for improvement because of LEP subgroups not meeting their targets for AYP.

Dr. Margo Gottlieb, Director of Assessment and Evaluation in the Illinois SEA and a lead developer in the WIDA consortium of ten states of which Illinois is an active member, stated that all 10 states are likely to adopt the English language proficiency test after field testing next Spring. The WIDA consortium is also developing an assessment instrument related to Spanish language arts. The WIDA English language proficiency (ELP) assessment is aligned horizontally across the ten states to common content standards and is also aligned vertically to ELL proficiency standards. The WIDA ELP assessment is designed primarily to help teachers review assessment data to inform instruction. Once adopted by states, the WIDA ELP assessment will drive instruction and will increase student interaction, include “big ideas,” expand graphic organizers and visual supports, and promote complex thinking. As we have previously reported, the WIDA consortium, among the five other consortia which have received Federal grants to develop English language proficiency assessments, is the most likely to result in more state assessment adoptions.

During the breaks and in between sessions, a number of textbook publishers were asked their thoughts on the recent report from the Thomas Fordham Foundation (see related item) which recommended the abolishment of

the textbook adoption process in 21 states. One official indicated that he had heard about the book and noted that he “needed to talk with one of the authors.” Most textbook officials generally dismissed it as “next to impossible” because the process is so ingrained within the textbook publishing community and state adoption bureaucracies. Even a high-level official from one of the largest supplemental publishers noted abolishing state textbook adoption processes is not very likely.

Information on the Summit is available at www.publishers.org.

New Council of Great City Schools Survey Finds Federal Title III English Language Acquisition Funding Has Increased Almost 110 Percent Among Member Districts After Passage of NCLB and Almost 20 Percent of Title III Funds are Used to Purchase or Develop Instructional Materials

According to a recently released Council of Great City Schools report, Federal bilingual education funding among its member districts increased from \$53.8 million in FY 2001 before NCLB to \$113 million in FY 2002, a gain of almost 110 percent, while Title III overall funding increased only 9 percent. For FY 2003, Title III funds allocated to responding member districts increased to \$130 million. The 47 member districts responding to the survey enrolled about

1.2 million English language learners last school year, slightly over 20 percent of all English language learners enrolled in U.S. public schools. The amount of funding per English language learner averaged approximately \$110 in Title III funds, but the amounts ranged from \$288 in Jackson, Mississippi to \$55 in Anchorage, Alaska. These responding districts also identified other sources of funding for programs serving ELL students, including state compensatory education funding, Title I, Title II, Title IV, Title V, Reading First, and IDEA.

Forty-two percent of the responding districts provided percentage estimates of the use of Title III funds which it received. About 25 percent of such funds were used to hire and retain bilingual ESL instructional staff, with 24 percent spent on professional development. Rather surprising was a finding that 17 percent of Title III funds were spent on instructional materials acquisition or development and about 3.5 percent spent on technology acquisition and training. The percentage reported which has been spent at the district level (17.1 percent) is likely to be low because 11 percent of Title III funds were allocated to individual buildings which are likely to have purchased additional instructional materials and/or training. While Los Angeles spent \$5 million on instructional materials acquisition or development, the following districts spent between \$1-2 million: Houston, Dallas, and Chicago. Districts spending more than \$250,000 on technology acquisition and training included Charlotte-Mecklenburg, Houston, and Miami.

When one looks at how funds were used under the previous Title VII Bilingual Education Act, some trends relating to the impact of NCLB Title III emerge. During the 1990s, most studies found that between 8 and 12 percent of Title VII funds were used to purchase or acquire instructional materials. The CGCS study findings strongly suggest that instructional materials acquisitions have increased substantially as a result of NCLB, especially in light of the fact that under the old Title VII, some funds were made available to non-profit groups to develop and disseminate bilingual materials at cost. Virtually all of these developmental groups have been disbanded or significantly cut back. During the 1990s, about the same amount of funds as identified by CGCS as spent on professional development but most of those funds went to higher education and other training institutions. The current survey found that the Council's member districts who responded said only 15 percent of old Title VII funds were used for professional development conducted by or for the member districts.

One other surprising finding is that only 3.2 percent of Title III funds, according to the responding member districts, is used to administer assessments or to acquire or develop assessment materials. Under the old Title VII, districts had significant flexibility in deciding what English language proficiency instruments they could use. However, as our recent survey of state assessment directors found, many states are participating in one or more of the five major consortia which are developing English language proficiency

instruments. It would appear that the purchasing or development of ELP tests has shifted from being a local to a state function. However, once such instruments are field tested and adopted by states then district purchases may increase significantly.

For a copy of the Council's report entitled, "Title III of No Child Left Behind: A Status Report from the Council of Great City Schools," which includes primary contacts in niche member district Title I programs, go to www.cgs.org.

Amid Confusion Regarding Why E-Rate Funding Commitments Have Been Frozen, There Are Negative Implications for Many Software Publishers

Regardless of the reasons why E-Rate funds and funding commitment letters have been virtually "frozen" most likely until the end of November, the negative impact goes beyond school districts but also to technology vendors, including education software publishers.

By the way of background, E-Rate observers point to a number of probable causes for the FCC decision to halt sending funding commitment letters of approximately \$300 million, including:

- In August, installation of new SLD accounting procedures disrupted the process;
- A decision to no longer commit funds until telecommunication

carriers E-Rate fees were in the hands of the SLD (an alleged violation of the Federal Anti-Deficiency Law);

- A "behind closed doors" decision by the White House Office of Management and Budget to reduce the SLD cash flow problem;
- Alleged wide-spread fraud and abuse and inadequate SLD initiatives to reduce it; Congressional E-Rate czar, Representative Joe Barton of Texas, suggested the SLD quit providing funds until the "mess" is cleaned up.

As widely reported in the media, the impact upon districts has ranged from a halt of Internet services to difficulties on the part of districts with pending funding commitment letters held up to be able to prepare their application for the next round of E-Rate discounts (which will likely open in mid-December). During discussions with school board members during the National School Board Association Foundation meeting at the recent T&L Conference, most board members felt that the frozen E-Rate funds is, or will present, a major problem. As reported in Education Daily (October 29), the NSBA survey of approximately 900 attendees found that 65 percent considered the E-Rate to be either "very important" or "somewhat important" in helping their schools implement their technology plans.

The impact upon certain types of service providers of eligible E-Rate services is

apparent. In many cases, contract awards have been postponed; or worse yet, districts decided to proceed and award contracts prior to receiving funding commitment letters with plans to request the discount through a refund under the BEAR process.

There are direct implications for software publishers. In many cases, districts may have used funds intended for software purchases as a “matching” component in order to receive the E-Rate discounts and then later purchase software. The discount refunds may not materialize. In at least one large district (which was involved two years ago in the SLD denial of all the E-Rate funds in their application because of alleged contract procurement violations by IBM and the district), during the last E-Rate application, a large percentage of the increase in Title I funds it received were used as in-kind matching in order to apply for E-Rate discounts. Such Title I funds could have been used to purchase instructional software. Moreover, if E-Rate discounts do not eventually become available through the BEAR process used to recoup E-Rate discount refunds, the district could get in serious trouble with Federal auditors as some of the proposed E-Rate school participants are not Title I schools.

The bottom line is that funding uncertainty, in most cases, has resulted in delays in district purchasing patterns. According to officials at the Universal Service Administrative Company (USAC), under which the SLD operates, as reported in Education Week (October 13), at the earliest, funding letters would not resume before the end of November.

This has resulted in E-Rate supporters in the Senate calling for the immediate resumption of E-Rate funding in response to a crescendo of e-mails, telephone calls, etc. to Senators from districts and state departments of education.

During the Technology and Learning Conference in Denver at the end of October, several national advocacy groups were lobbying for legislation to be passed, during the lame duck session after November 15, which would provide an exemption for the E-Rate program under the Federal Anti-Deficiency Law. Such waivers or exemptions have been allowed for slightly over 15 programs, including the Federal Highway Trust Fund, in the past. If a waiver or an exemption is provided for E-Rate funding letter commitments, then such letters could be sent to approved applicants even though the actual funds, in the form of fee subscriptions from telecommunication carriers, would not be received in hand until later.

During the service providers teleconference on October 20, SLD officials indicated that the suspension of funding commitment letters applies only to new applications from districts. It does not apply to previous year applications nor to appeals that are in the process of being determined to be meritorious or not. As a result, even though new application funding commitment letters have been suspended, several hundred million dollars of previous year’s commitment or appeals has continued to be awarded to applicants since early August. SLD

officials indicated that they have no idea when the FCC will decide to remove the suspensions, although “they are working hard” to resolve the problems.

Also, during the October 20 service provider teleconference, SLD officials indicated that the eligible services list update is available on the FCC website although it has not been officially approved and, therefore, is not on the SLD website. Evidently, the FCC has posted them for comment within 60 days.

Education Trust First Comprehensive Trend Analysis of Student Achievement Under NCLB Finds in Most States Achievement Moves in the Right Direction But Pace of Improvement is Too Slow

In its first comprehensive trend analysis of elementary reading and math achievement under NCLB, the highly regarded Education Trust found that overall achievement increased in 23 of 24 states since 2002 at the elementary level and in only one state did math performance decline. Of the 23 states, 15 increased reading achievement; in five states reading performance declined and in three states no change occurred. States with the largest increases included Florida (15 percent), Delaware (7 percent), North Carolina (6 percent), Pennsylvania (6 percent), Virginia (6 percent), and California (4 percent). Conversely, states with the largest decreases included Arizona (-7 percent),

New Hampshire (-3 percent), and Oregon (-3 percent). States that were able to reduce the African-American/White gap the most were Ohio (-8 percent), Pennsylvania (-8 percent), Virginia (-8 percent), Connecticut (-8 percent), and North Carolina (-7 percent).

Among the 23 states in which math achievement increased since 2002, the largest increases were in Florida (13 percent), Georgia (10 percent), New York (11 percent), Pennsylvania (9 percent), Illinois (9 percent), Maine (9 percent), Michigan (8 percent), and Mississippi (8 percent). In Connecticut, math performance dropped one percent. The math achievement gap between African-American and White students in mathematics narrowed the most in New York (-10 percent), North Carolina (-8 percent), Virginia (-7 percent), and Delaware (-7 percent), with a widening gap occurring in Alaska (2 percent) and Louisiana (2 percent).

The Education Trust report was released amid controversy with a recent report by Professor Bruce Fuller, Co-Director of the Policy Analysis for California Education, independent research center based at Stanford University and the University of California; Fuller reported just the opposite findings, claiming student performance is not climbing in most parts of the country. As summarized by Fuller in Education Week (October 13), “Since the passage of Mr. Bush’s signature education policy, student performance leveled off or fell in eleven of 15 states participating in the study.” Moreover, “We can not detect any consistent gains in children’s

reading scores since the passage of Washington's No Child Left Behind reforms."

In his October 8 press release, Secretary Paige responded to the Fuller report as follows: "The study by the group Policy Analysis for California Education (PACE) is deeply flawed. Its analysis is riddled with assumptions, rough approximations, and inaccuracy. In fact, the numbers PACE selected show that test scores are up in 14 of the 15 states they analyzed....The authors have also redefined proficiency to their own liking in several states (such as Florida and Minnesota) imposing their own conceptions of what it means to be a proficient reader."

Both reports have some truth. However, the Fuller article (which PACE co-director Dr. Mike Kirst disavows) refers not only to achievement gains in reading and math but also to other measures such as an increase in the percentage of students that achieve proficiency targets. The differences clearly show that the performance standards and "cut scores" for determining proficiency vary significantly across the states. For example, according to Education Trust, of the states they analyzed, reading performance dropped the most in Arizona by 7 percent. Yet, earlier this month the Arizona Department of Education announced a decrease in the number of schools failing to meet AYP the previous year which had been slightly over 80 schools. Of those, only 15 percent failed to meet AYP once again with the remaining taken off the list. Such an occurrence could only be

attributed to "lowering the bar," which Arizona did last year.

The results of the two studies are likely to be used as political fodder during this election year and for determining what NCLB changes are to be made after the election. As we have noted on several occasions, the Education Trust has maintained a bipartisan role in advocating many of the tenets of No Child Left Behind with arguments based upon the best data available; and it is likely to be considered more credible within Congress as NCLB provisions are reviewed. For a copy of the Education Trust report entitled, "Measured Progress" go to <http://www.edtrust.org/>.

Kerry Advisor Argues NCLB Isn't Working as it Should Because it Hasn't Been Funded as Promised and Implemented with Common Sense

During an Education Week webcast on October 15, Robert Gordon, Education Advisor to the Kerry campaign, argued that NCLB should be fully funded as promised when passed by Congress and should be implemented with "common sense." Ironically, it appears that Gordon and Sandy Kress, key Bush advisor and architect of NCLB, who was on a similar Education Week webcast last month (see September Washington Update), are farther apart on issues than the President and Candidate Kerry, who has over the last several months appeared to be less specific about changes he would seek in NCLB if elected. Citing recent Government

Accountability Office reports on the implementation of NCLB, Gordon pointed to a number of areas where Kerry would likely make changes, including:

- the use of more “nuanced tests that consider the full range of talents that we want students to learn. Unfortunately good tests don’t come cheap -- they cost more to develop and more to administer. The GAO did a study showing that high quality tests would cost \$3 billion more than low quality tests over just five years.”
- Make sure the law “reflects not only high standards but also common sense and real world experience across America;”
- Beyond “giving schools the money they need to collect data (especially assessment data), John Kerry will also make sure schools have the help they need”; he emphasized that USED needs to work as a partner providing the most advanced technical assistance and help in meeting data collection and other NCLB mandates.

Beyond possible changes within the current NCLB framework, he noted that President Kerry would increase the “availability of afterschool programs so that 2 million more students can have access to these programs over the next four years, in contrast the President has

proposed cutting afterschool programs for 500,000 students.”

Citing another recent GAO study, Gordon stated President Kerry would further support and possibly expand the Rural Education Achievement Program and support the use of technology as it “can be particularly valuable in rural districts; for example small rural schools often use online courses as a way to diversify the course offerings and obtain additional reading expertise.” Gordon also indicated that President Kerry would provide a much higher priority on secondary schools and improvement in graduation rates and would implement other alternatives such as small schools and schools-within-schools at the high school level.

In supporting NCLB passage several years ago, Senator Kerry supported “choice and competition” within public schools while opposing school vouchers and would reward excellent teachers with increased pay based upon improved student performance and other measures. More recently, he has campaigned for higher teacher salaries with earmarked Federal funds to pay teachers who teach in high poverty, low-performing schools and to reduce class size. In a related article in Education Week (October 13), Gordon stated, “that the Senator is committed to making the Act work better and might pursue the legislative fixes.” Another Kerry adviser, Andrew Rotherham at the Progressive Policy Institute, which is affiliated with the Democrat Leadership Council, has stated, “You will see changes to the Law, it needs changes.”

Results of Association of Education Publishers Survey on the Impact of Scientifically-Based Research Provisions: Interpretation of Results

In September, the AEP conducted a survey of its vendors regarding the impact of scientifically-based research provisions under NCLB. One of the primary purposes of the survey was to collect data which could justify the probable negative impact of the current House version calling for “prereferral interventions.” The House would require that IDEA funds could only be used to purchase intervention products which included all of the five “essential elements” required for Reading First approval. Based upon anecdotal information gathered over the last two years and discussions with various education publishers and instructional software providers, we offer below our interpretation of the results.

Overall, 25 firms responded to most of the AEP questions. Most of the firms targeted Title I, Reading First, or state adoption “recommendation-type” niches. Within these niches, most targeted districts followed by schools and classrooms. About three-quarters of the firms had sales of less than \$25 million, with only 14 percent above \$100 million in annual sales.

When asked why potential sales were lost or why they were precluded from bidding on procurements, 45 percent of respondents reported that the primary reason “frequently” was that their products were not on state or Federal

official or unofficial recommended lists. Fifty-three percent of respondents indicated potential sales were lost “occasionally” because district decision-makers felt their products did not meet their interpretation of SBR definitions and 44 percent attributed potential lost sales to district confusion about criteria for SBR and, therefore, a decision was not made or postponed. On the other hand only five percent and eleven percent of respondents, respectively, felt that these two reasons for lost potential sales occurred “frequently.” In a related question, almost 40 percent of respondents indicated that they were asked to provide SBR evidence for products covering grades preK-5 compared to only seven percent for grades 9-12. Almost 85 percent of respondents indicated they had to frequently provide SBR for the areas of reading or English language arts. This strongly suggests that SBR criteria are being followed in the majority of cases under the Reading First program which is the only program consistently that has official or unofficial Federal or state lists. Where such lists exist, the criteria are not open to interpretation. And, where such confusion and interpretation exist, it is usually related to other programs such as Title I.

Clearly, the area in which SBR criteria are being applied most are reading and language arts followed by mathematics, where only 60 percent of the respondents indicated they had been asked to provide SBR-related evidence. Well over half indicated they never had to provide such SBR evidence for science and social studies. In the immediate future, it is likely that district officials will

increasingly require publishers to provide evidence about the effectiveness of their math programs, particularly where they are confronted with high-stakes testing and/or exit exams required for graduation with significant growth occurring at the middle school and high school level.

In the meantime it is also very apparent that the House version of the prereferral interventions section could have a significantly negative impact on supplemental publishers generally. AEP is urging its members to contact the recently-appointed Senate and House conferees for the IDEA reauthorization to encourage conferees to include in the conference report a statement that: (a) the use of appropriate supplemental instructional materials is an allowable use of prereferral intervention funds; and (b) supplemental materials, as opposed to core curriculum materials which must meet standards of scientific rigor, only have to be aligned with and designed to reinforce the skills taught in the comprehensive research-based text. For more information contact www.aep.org or Charlene Gaynor, Executive Director at 856/241-7772.

Follow-up Study of 21st Century Community Learning Centers Conducted by Mathematica Policy Inc. Finds Few Statistically-Significant Differences Between Treatment and “Comparison” Groups as Afterschool Advocates Reiterate Continuing Research Flaws with the Study Design

The Mathematica second-year study findings continue to show few significant differences in elementary and middle school student achievement and safety measures. Specifically, Mathematica found “Programs did not affect reading test scores or grades for elementary students. Grades for middle school students in programs were higher in social studies relative to the comparison group but not in English, mathematics, and science...Middle school students in programs missed fewer days of school and are more likely to aspire to attend college.”

Leading afterschool advocates dismissed the study findings, claiming as they did in February 2003 when the first report was issued, on the following bases:

- The first year’s data on student achievement did not reflect the major changes being made the year of data gathering under the new law which added the requirement that 21st Century programs provide academic components.

- The research design was flawed as the Mathematica Policy, Inc. research advisory group also pointed out when a number of them resigned over a year ago.

Last February, when the Mathematica study findings were released, the Administration released its 2004 fiscal budget which proposed to cut the 21st Century Community Learning Center program from \$1 billion to \$600 million as justified by the first-year study findings. Andrew Rotherham, Director of the Progressive Policy Institute, a think tank of Centrist Democrats, stated in the October 11 Education Daily, "What the report does not say is that the way to improve the quality of afterschool programs is to cut funding." While most observers feel that the second year findings will not have a major impact upon the final determination of the FY 2005 budget which currently operates on a "continuing resolution," final appropriations will likely not be available until early next year. The study involved 12 school districts and 26 centers at the elementary school level and does provide useful descriptive information about how such centers operate. According to Mathematica, the typical elementary school center:

- operates five days a week for three hours a day serving about 120 K-6 students;
- After a 75-minute snack time followed by homework, the other two sessions are 40 minutes each

and include academic and enrichment activities;

- In one session, students alternatively work on computers to improve basic skills or meet with the certified teachers while taking aligned lessons;
- In the last session, students are grouped by grade levels and rotate through enrichment activities such as arts and crafts, karate, and fitness and dance.

Previous studies of afterschool program, conducted prior to 1991, typically found that the average amount of instruction was slightly less than 100 hours over the year -- significantly less than in 21st Century Community Learning Centers.

Typical 21st Century middle school center has about 45 students beginning at 1:30 P.M. where students gather in the cafeteria for a snack following by homework.

One finding might have had an impact on low "treatment" student achievement -- namely two-thirds of the teaching staff did not return the second year and one-third of centers had a new principal and a new center coordinator the second year. And program attendance the second year was much lower averaging only 8.8 days and almost 60 percent of the treatment group of students transferred to high schools or other middle schools that had no 21st Century programs, according to the new report. Interestingly, a new poll of 8-18 year-olds by Junior Achievement, found that only 14 percent participate in organized

afterschool programs. Moreover, 16 percent stated they were not interested in participating in such programs as they currently exist and expressed interest in a greater variety of offerings including “working with computers,” “spending time with mentors,” and “learning about various careers.”

For a copy of the report entitled “When Schools Stay Open Late” go to www.mathematica-mpr.com/publications/PDFs/21stnewfindings.pdf.

Increasing Number of Large Districts Identified for Improvement Are Being Forced to Consider Alternatives to Providing Supplemental Education Services Themselves; Otherwise Title I Funds Will Follow the Child to Third-Party SES Providers

As predicted in the last TechMIS Washington Update, large districts identified for improvement are either rebelling against USED regulations which disqualify them from providing their own supplemental education services or seeking alternatives rather than having up to 20 percent of their Title I funds leave the district to independent third-party SES providers. The most blatant case is the Chicago Public Schools which, for the most part, provided its own supplemental education services to more than 37,000 students last year; the district is likely to be identified for improvement when final

test scores of Chicago students are announced. Assistant Deputy Secretary Nina Rees has ruled that Chicago’s district-operated afterschool program must be dismantled or funded locally if the district fails to meet its AYP targets the second year. In a recent Chicago Sun Times article, Chicago CEO Arne Duncan claimed that only 9,000 of the 37,000 students eligible for SES would receive them if only private tutors could provide SES, because of their significant increase in cost per pupil. Duncan stated, “We are not going to let 30,000 students lose desperately needed programming. If this is what Federal bureaucrats want, that shows how far out of touch they are with reality. I can’t believe that is the intent of the law.” It is likely that the Illinois SEA will be requesting a one-year waiver for Chicago and ten other districts that have been identified for improvement which would allow them to continue providing their own SES services during this year. Last month, the New York City Board of Education announced that it will no longer will provide its own SES but will rely exclusively on independently approved third-party SES providers, largely because most of the 35 LEA entities under the New York City Board of Education were identified for improvement.

Challenges exist, not only in large urban districts, but also statewide in some cases. For example, all but two districts in West Virginia have been identified for improvement and, in Colorado, over 20 districts which educate 80 percent of the State’s enrollment will have been identified for improvement, including “Blue Ribbon” districts such as Cherry

Creek. At stake in these districts could be up to 20 percent of the Title I allocation to be earmarked for supplemental education services and/or transportation; this could be a boon for SES providers at the expense of instructional software and supplemental material publishers who wish to “partner” with districts that provide their own SES.

One alternative is for these districts to file lawsuits questioning whether the USED regulations and Non-Regulatory Guidance go beyond the intent of the Law. For example, during the annual Fall legislative conference of the Council of Great City Schools, a spokesperson from New York City Public Schools indicated that their lawyers concluded that only five percent, not 20 percent, has to be earmarked for supplemental services and five percent for transportation; the remaining ten percent can be earmarked at the “discretion” of the district. Jeff Simmering of the Council of Great City Schools recently told Education Daily that a strict interpretation of the Law does not prevent districts identified for improvement from offering tutoring “so long as they have a demonstrated record of effectiveness. ED’s regulations do. This is a regulation they created out of the thin air.” Another likely alternative would be to encourage groups of teachers to form entities which could be approved as SES providers or to contract directly with the local teachers association such as is the case in Toledo Public Schools which was identified by USED as one of five best practice districts for providing SES. During a recent USED webcast on SES, the

Toledo superintendent stated Toledo’s teacher-operated afterschool program was initiated prior to the final passage of NCLB. He noted that one of its strengths is that Toledo teachers are more likely to know the needs of individual students than will independent third party providers.

Current USED policy disallowing districts identified for improvement from providing SES will challenge the ingenuity of district officials and, therefore, providing possible opportunities for TechMIS subscribers to get their share of SES funds without having to provide SES directly.

USED Provides States “Guidance” on State and District Allocation of Title I Earmarks

On October 12, National Title I Director Jackie Jackson, sent a letter to Chief State School Officers providing guidance on: (1) state flexibility in allocating the four percent “school improvement” earmark to districts and schools, and (2) flexibility in using the 10 percent earmark for staff development in districts with schools identified for improvement for the first time. NCLB requires that each state reserve four percent of Title I funds it receives for school improvement activities with 95 percent of this set aside allocated directly to LEAs for schools identified for school improvement, corrective action, restructuring, and other sanctions. Even though a district may, initially, receive

four percent less, it may receive all of the four percent and perhaps even more if it has a large number of schools identified for improvement or is confronted with other sanctions. Regarding LEA's identified for improvement but which have no schools identified, the new ruling states, "We do not believe that a state may initially allocate Section 1003 funds to LEAs that do not have any schools for improvement." However, if a state has any excess funds available after it allocates initial funds to districts with schools identified for improvement, the state "may allocate the excess amount to LEAs either as part of the state's regular Title I allocation process or in accordance with Section 1126 (c) which permits a state to reallocate excess Title I funds to LEAs based upon need." In the eleven states which received Title I reductions for this school year, extreme pressures exist to allocate the four percent set aside to districts that had the greatest cutbacks to "soften the blow."

The October 12 letter also provides much greater flexibility in using the 10 percent LEA Title I earmark for professional development in districts or schools that are identified for improvement. The new "statutory provision clearly authorizes an LEA to use the professional development set aside for teachers throughout the LEA. In determining how to use these funds, i.e., 10 percent of the LEAs Title I allocation, the LEA should examine the needs of all its schools, not just the ones that did not make adequate yearly progress before spending the ten percent." This ruling is a significant departure from previous unofficial

guidance in that most states have told districts to provide professional development first to LEAs and schools identified for improvement and then to those that fail to meet AYP for the first time.

Some direct implications for TechMIS subscribers who provide professional development products or services is that the decision as to how the 10 percent earmark will be spent will rest with the district Title I office rather than funds being allocated for staff development to schools identified for improvement. Many of these district Title I directors will consider this 10 percent earmark to be a flexible "pot of money" which could be spent on their definitions of staff development which could include mentoring, coaching of new teachers, etc. Most district Title I officials will not have been told of this policy change by SEAs; TechMIS subscribers should be prepared to make district Title I directors aware of this new policy.

The letter also clarifies the need for interventions and sanctions for non-Title I schools that fail to meet AYP. While sanctions do apply to Title I schools, they do not apply to non-Title I schools unless the State has an approved accountability plan which does not distinguish between Title I and non-Title I schools for accountability and sanction purposes. The letter also chides many districts which have taken Title I funds out of schools that are likely to be identified for improvement and fall under sanctions; this is the case in some states, such as Texas, which have large state comp-ed programs which replace Title I withdrawn funds. Ms. Jackson

notes, “I also remind you of the requirement to serve schools in rank order of poverty so that schools moving in and out of Title I will most likely be an LEA ‘s lowest poverty Title I schools.” Beyond this, the letter allows states to have flexibility to establish their own guidelines for determining rewards and interventions in non-Title I schools. For a copy of the letter go to <http://www.ed.gov/policy/elsec/guid/statelatters/uofcssos.html>.

New Report Identifies Fifteen Elements of Effective Adolescent Literacy Programs but Admits Little Evidence Exists Regarding How to Combine and Sequence Them for Effective Strategies

A new report from the Carnegie Corporation authored by leading researchers in the area of teaching adolescents literacy has identified 15 elements which contribute to adolescence literacy. On the other hand, they argue that there is little consensus on the most effective way to combine them to ensure effective reading strategies and recommend additional research in this area. Just as the National Reading Panel reports during the late 1990s (and other research conducted by Reid Lyon and associates at the NICHD) identified the “essential elements” for effective teaching of reading at the early childhood level, this report will provide the foundation for designing and implementing middle and secondary level initiatives announced by both President Bush and Candidate John Kerry.

In the Foreword to Reading Next, author Dr. Catherine Snow, Harvard University, paints a bleak picture for high school dropouts in 2004 compared to the 1950s because “social safety nets” are no longer available as they once were. Calling adolescent literacy development more “challenging” and “rewarding,” she notes, “Inevitably, this will require, for many of those students, teaching them new literacy skills: how to read purposefully, select materials that are of interest, learn from those materials, figure out the meanings of unfamiliar words, integrate new information with information previously known, resolve conflicting content in different texts, differentiate fact from opinion, and recognize the perspective of the writer -- in short, they must be taught how to comprehend.”

Reading Next identifies with some “certitude” fifteen elements that can be critical for improving middle and high school literacy achievement right now:

1. **Direct, explicit comprehension instruction**, which is instruction in the strategies and processes that proficient readers use to understand what they read, including summarizing, keeping track of one’s own understanding, and a host of other practices.
2. **Effective instructional principles embedded** in content, including language arts teachers using content-area texts and content-area teachers providing instruction and practice in reading and writing skills specific to their subject area.

3. **Motivation and self-directed learning**, which includes building motivation to read and learn and providing students with the instruction and supports needed for independent learning tasks they will face after graduation.

4. **Text-based collaborative learning**, which involves students interacting with one another around a variety of texts.

5. **Strategic tutoring**, which provides students with intense individualized reading, writing, and content instruction as needed.

6. **Diverse texts**, which are texts at a variety of difficulty levels and on a variety of topics.

7. **Intensive writing**, including instruction connected to the kinds of writing tasks students will have to perform well in high school and beyond.

8. **A technology component**, which includes technology as a tool for and a topic of literacy instruction.

9. **Ongoing formative assessment of students**, which is informal, often daily assessment of how students are progressing under current instructional practices.

10. **Extended time for literacy**, which includes approximately two to four hours of literacy instruction and practice that takes place in language arts and content-area classes.

11. **Professional development** that is both long term and ongoing.

12. **Ongoing summative assessment of students and programs**, which is more formal and provides data that are reported for accountability and research purposes.

13. **Teacher teams**, which are interdisciplinary teams that meet regularly to discuss students and align instruction.

14. **Leadership**, which can come from principals and teachers who have a solid understanding of how to teach reading and writing to the full array of students present in schools.

15. **A comprehensive and coordinated literacy program**, which is interdisciplinary and interdepartmental and may even coordinate with out-of-school organizations and the local community.”

The report recommends that program designers “flexibly try out various combinations in search of the most effective overall program.” However, it emphasizes that three specific elements must be included in any combination, including professional development, formative assessment, and summative assessment.

The report recommends, “Stakeholders should select programs and interventions according to the inclusion or exclusion of the fifteen elements -- thereby creating a *planned variation* -- and *evaluate implementation using a common process* to allow for

comparisons across programs.” The challenge to the research field is to strengthen its understanding of “exactly what works, when, and for whom.” To the extent the report influences middle and secondary school reform initiatives, especially for struggling readers, the “prescriptive flexibility” under Reading First will be changed to an environment more conducive to exploring the relative effectiveness of different combinations and sequences of the fifteen elements.

The report [Reading Next](#) can be downloaded from the Alliance for Excellent Education at www.all4ed.org.

National Center on Education Outcomes Finds Out-of-Level Testing for Special Needs Students Has Increased Even Though USED Policy Opposes Out-of-Grade-Level Testing for Determining AYP Under NCLB

In the most recent annual report on out-of-grade-level or off-level state assessments, NCEO reports that between 2001 and 2004, the states using below-grade-level-tests have shifted considerably. Six states -- Arizona, California, Iowa, South Carolina, Utah, and Vermont -- have maintained out-of-level testing since 2000. The other states with out-of-level testing in 2003-2004 included Kansas, Mississippi, Nebraska, North Carolina, Oregon, Tennessee, and Texas. States which have discontinued out-of-level testing since 2001 include Alaska, Connecticut, Delaware, Hawaii, Louisiana, North Dakota, and West

Virginia. USED, in its regulations, opposed out-of-level testing but did allow up to one percent of cognitively-impaired special education students who took alternative tests (which could be out-of-level tests) who achieve proficiency to be counted toward AYP. Proficient students above the one percent gap would have been counted as failing to meet AYP. However, as we have noted, many of these students are “strategically assigned” by districts to non-Title I schools which do not fall under AYP sanctions or Title I schools which would achieve proficiency targets even with these student failing scores being assigned to them.

Noting that states’ use of out-of-level testing appears to be “inconsistent with Federal policy,” NCEO implied that perhaps even more states are using out-of-grade-level testing since NCEO had to rely on what states provided to them in terms of written policy. The report also found that different states use different classifications and terminology in describing out-of-level testing, including “modifications,” “accommodations,” “alternative assessments,” or “adaptive assessments.” While four states altered their qualification criteria for students who are allowed to be tested out-of-level, the qualifications of cognitively-impaired students who are allowed alternative tests is currently undergoing major changes in most states as more and more states wish to include so called “gap” students in alternative tests beyond the one percent proficiency cap. Beyond reading, language arts, and math, NCEO also concluded there is a “small trend for states to include science, social studies, and writing content areas

in their out-of-level or levels tests if these content areas were not already part of their testing options.” In 2003-04, only two states in 2003-04 indicated they did not report out-of-level or levels test results at the state level. According to NCEO, “Yet, it seems that many states aggregated out-of-level or levels testing data with on-line data, a practice that inhibits, if not eliminates, the possibility of identifying valuable student subgroup assessment information.”

Clearly, the NCEO report points out that the volatility and changes related to out-of-level or alternative testing for special education and, in certain states, limited English proficient students, is significant. One can also infer that opportunities exist at the state level for firms with applications that can assist states in refining or even expanding out-of-level testing in spite of USED policy, especially next year, as in most states the AYP deficiency targets for subgroups are increased. For a copy of the NCEO report entitled, “Rapid Changes, Repeated Challenges: States’ Out-of-Level Testing Policies for 2003-04” go to <http://www.education.umn.edu/NCEO/OnlinePubs/OOLT13.html>.