

# *Washington Update*<sup>8</sup>

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*Vol. 9, No. 11, November 30, 2004*

## **Major Changes to State Accountability Plans As Approved by USED Suggest What States to Target For Certain Products and Services**

Since June 2003, virtually all states have requested changes in their state Accountability and Assessment Plans, which were “tentatively” approved at that time. Some of the requested changes were a direct result of the publication of regulations in February-March, based on “newly-found flexibility” for assessing special education and English language learners and test participation rates used for determining whether schools met AYP targets. Some states requested changes that had been quietly approved in other states in areas such as increasing the minimum subgroup size for determining whether a school would even be considered for not having met AYP achievement targets. The net effect of changing the rules for the 2003-04 school year has, in most states, been to increase the number of schools meeting AYP targets and fewer-than-expected schools being identified for improvement. As detailed in the *Pennsylvania Update*, Pennsylvania requested a number of amendments allow schools with lower graduation rates, lower standardized test scores, and lower attendance to meet AYP. If, according to the *Philadelphia Inquirer*, the same rules used in 2003 had been

used in 2004, the number of schools falling short of the “yearly benchmark would have grown from 566 to 1,164. Instead of 81 percent meeting the benchmark just 61 percent would have succeeded. Last year, 63 percent of schools made the benchmark.”

One recent study of rule changes approved by USED was conducted by the Center for Education Policy which is monitoring NCLB implementation. This report relied on memoranda and letters sent by USED to 35 states which requested changes in their Assessment and Accountability Plans. Some of the remaining states had incorporated such changes into their 2003 plan. CEP evidently took into account states’ plans approved in June 2003 in coming up with a summary of the different changes proposed in eleven other states.

In order to implement the revised Federal guidelines published in February-March 2004, states had to submit their interpretation of the guidance incorporating it as an amendment to their existing Accountability and Assessment Plan and receive USED approval. During 2004, 45 states and Puerto Rico received approval to use alternative tests for certain special education students. However, as we have noted in the past, while more than one percent of the students could take the alternative test, no more than one percent of the students who were proficient on the alternative

test could be counted toward AYP unless a waiver is requested and approved by USED. Last Spring, Texas asked to increase the cap to eight percent which was the portion of Texas students taking alternative tests last year. Toward the end of July, USED disapproved the Texas request which has created a chaotic situation in the State because the final count of those who achieved proficiency beyond the one percent are being designated as student “failures” for determining AYP; hence, the State has announced that it will not list the schools identified for improvement until February 5, 2005. On the other hand, while many of the states requesting their interpretation of changes in the guidelines did not discuss “strategic assignment” of the test scores of proficient students in excess of one percent, many states are telling districts to assign those failing scores to non-Title I schools or Title I schools where assignment of failing scores would not result in the school being identified for improvement. The CEP report once again points to the volatility in virtually all states related to alternative assessments which could provide direct opportunities for firms with embedded assessment items as part of integrated learning systems or other instruments which could be used as alternative assessments. Such instruments could also generate a demand for certain aligned products.

While about 25 states had included “confidence intervals” in their 2003 plans, 12 additional states in 2004 requested and received approval to use “confidence intervals” -- a statistical technique, like a “margin of error” in

polls, that takes into account measurement errors and other factors unrelated to student learning. As a result, more than 35 states currently include the use of “confidence intervals” and other states are likely to make similar requests. As the result of using this technique, the number of schools failing to meet AYP, and hence identified for improvement, has generally declined from the previous year in both 2002-2003 and 2003-2004. The use of “confidence intervals” has been beneficial in states with large numbers of small districts with diverse populations and serves as “cushion” for schools that would be otherwise identified for improvement.

The CEP study found that 26 states now have incorporated into their accountability plans, provisions for English language learners which would exempt immigrant students who have been in a U.S. school for less than one year from taking regular state reading tests and allowing former English language learners who exit from bilingual or related programs to have their scores counted as part of the subgroup for two years after they have reached English proficiency. In some states such as California, these students may be counted as part of the subgroup scores for up to five years after they exit the program. One of the co-authors of the CEP report confirmed that, in her discussions with individual state assessment officials, opportunities exist for groups with English language proficiency tests because significant changes at the state level are occurring now and over the next year.

As we noted in our last TechMIS report, one of the “front and center burning issues” among many urban districts is the interpretation by USED of the Law that would not allow a district identified for improvement to provide supplemental education services. Earlier this year, nine states requested approval for amendments that would identify a district as needing improvement only when it had not made AYP in the same subject across all three grade spans -- elementary, middle school, and high school -- for two or more consecutive years last year. The “USED prohibition,” which is its interpretation rather than the “letter of the law,” is becoming a major issue in states which have increased the minimum size of subgroups in calculating AYP which results in fewer schools failing to meet AYP, while the district as a whole is more likely to fail to meet its AYP target. During this year, eleven states either requested increases in the minimum size of subgroups or otherwise made changes in the formula for determining subgroup size. Most of these states raised the minimum size for LEP and special education subgroups.

Without question, the number of states requesting approval for amendments for determining whether a district is identified for improvement will increase this year and next year as the AYP proficiency targets are increased across all states. If a firm is interested in partnering with districts that provide supplemental education services themselves, they should target states that have approved amendments minimizing the probability that districts will have been identified for improvement,

especially in states which have also increased the minimum size of subgroups for determining AYP.

For a copy of the Center for Education Policy report entitled “Rule Changes Could Help More Schools Meet Test Score Targets for NCLB” (October 22, 2004), go to [www.cep-dc.org](http://www.cep-dc.org), or call 202-822-8065.

### **During Recent National Leadership Institute (NLI), State Education Technology Directors Were Upbeat and USED Highlights the New Five-Year National Technology Plan**

Compared to the NLI a year ago, the participants in the SETDA annual meeting were much more upbeat on technology use and support among policymakers at district and state levels. This is in spite of continuing budget pressures on most, but not all states, as noted below. Without question, the recent “freezing” of E-Rate “funding decision commitment letters” has created a market paralysis as district officials are having to reallocate software, training, and related budgets to cover E-Rate connectivity contingencies if districts’ 2004 plans are not approved. There appeared to be less concern during the November 14-16 meeting that the House had proposed to cut the E<sup>2</sup>T<sup>2</sup> technology funding for FY 2005.

From a state budget perspective, many of the state technology directors appear to be a little bit more optimistic than state financial analysts who attended a

recent National Conference of State Legislatures post-election meeting. According to Education Week (November 17), Corinna Eckl, NCSL fiscal affairs director, noted that total state revenues for FY 2005 were about the same level as they were in FY 2002 before major cuts and felt that the future would be influenced by a “more conservative fiscal climate.” The general impression during the NCSL meeting was that additional state funds would be allocated or reallocated to implementing aspects of NCLB for which Federal funds are currently lacking or uncertain. During the NLI conference, several state technology directors expressed major interest in funding increases in IDEA and Title I, indicating that these two areas may actually have a chance for increased purchasing (of technology instructional software and related tools). Only in a few states with overall surpluses have technology budgets actually increased or remained the same. One seasoned SEA official responsible for technology noted that he was able to get the governor and legislature to reinstate a \$9 million earmark for hardware, software, training, etc. for the last two biennia, but for the next biennium he is going to have to ask for much more, hoping to get somewhere around \$10 million, recognizing the fact that competition for state funds from other programs, particularly Medicaid, has grown dramatically. It is clear that, as James Guthrie noted in the November Education Week, as state education funding increases while local property tax revenues decreases, education loses its “sheltered” status and has to compete directly with other state priorities.

One of the highlights of the NLI conference was an update by Susan Patrick who directs the USED Office of Education Technology; she argued that technology-savvy students are the major force behind the “fundamental revolution” in the way technology will be used in public schools. USED’s survey with Net Day, which resulted in over 200 student responses, indicated that these students “want to be listened to on technology issues” and that this is resulting in a dramatic increase in virtual schools and online instruction. She theorized that the increase in online instruction and access could have contributed to the increase in the number of schools meeting AYP this year compared to last year, noting that in nine states the number of schools meeting AYP increased by 10 or more percent. She mentioned several of the foundations and underlying assumptions which influenced development of the five-year National Education Technology Plan which will be released in December; these include:

- Strong leadership, including direct involvement of students;
- Fundamental changes in the way school budgets are developed, including considerations such as tradeoff analysis;
- Increased teacher training, particularly through online means at the convenience of teachers;

- E-learning where all students have access to learning;
- Adequate technology support;
- A strong movement to digital content and delivery vs. dependence on textbooks; and
- Increased operability data systems which can personalize instruction to meet the needs of individual users.

Once the five-year plan is released, it will be disseminated to all individuals who can make suggestions and comments. It will be available on the Department's website [www.mastertechnologyplan.org](http://www.mastertechnologyplan.org) and through related forums on a continuing basis.

### **USED Finds Most Middle School Math Curricula Are Not Based on Scientific Evidence of Effectiveness Based Upon the First Report From the What Works Clearinghouse on Middle School Mathematics**

The What Works Clearinghouse reviewed eleven studies examining five commercial mathematics programs and found that only two were associated with scientific evidence of effectiveness: *I Can Learn* and *Cognitive Tutor*. As many software and other education publishers have argued, USED's conclusion is misleading because the stated purpose of the WW Clearinghouse

is not to identify interventions that are effective, but rather to identify high-quality rigorous studies which used randomized trials or well-designed treatment/comparison/control groups to determine the degree to which the studies themselves met the rigorous standards of the WW Clearinghouse. The overall conclusion should have been that, of the 800 studies of math programs in grades 6-9 which were reviewed, only 11 evaluations met the Department's new standards of evidence and, of the five commercial mathematics programs which were examined, only two were effective based upon scientific evidence. Over the last several years, the majority of supplemental education publishers argued they cannot afford to pay for such rigorous evaluations. Or if a study was found to lack rigor and was rejected by the WW Clearinghouse, then the public perception could be that the specific intervention was not effective.

Even though the USED press release noted that the absence of scientific evidence of effectiveness does not mean that the curriculum is ineffective and that the USED does not endorse any curriculum not designed to be effective, within hours of the announcements, the Orleans Parish Public Schools (Louisiana) announced a \$6 million purchase of *I Can Learn* for use in 30 additional schools. Interestingly, within 24 hours of the release of the WW Clearinghouse study findings, the Brown Center on Education Policy at The Brookings Institution, a Washington think tank, argued that the National Assessment of Education Progress (NAEP) is filled with questions that are too easy, arguing that, in the eighth

grade NAEP test, over 40 percent of its questions address skills taught at the first or second grade. The NAEP test for fourth grade students also has 40 percent of questions that are leveled at first and second grade skills. Brown Center Director Tom Loveless attended the What Works Clearinghouse press conference and noted, in a November 18 press release, that the Center had aligned the questions with the Singapore Math Textbook program which was selected “because of its clarity and strong international reputation and that it compared well to math class sequences being used in states such as California and North Carolina.” The Singapore Math Textbook program was not one of the five commercial interventions included in the WW Clearinghouse examination.

### **E-Rate Funding Commitment Decision Letters for 2004 Funding Round Remain Halted Although Congress Might Pass Legislative Fixes When It Returns on December 6-7**

Although Senator John McCain (R-Arizona) has been instrumental in drafting a bill that would exempt E-Rate from the Anti-Deficiency Act (ADA) which is currently holding up distribution of Funding Decision Commitment Letters for 2004 applications, the House did not pass the complete McCain package which resulted in a refusal by the Senate to vote on the House version. Advocates are lobbying recalcitrant House members to pass the complete Senate version when it

returns on December 6-7. If the E-Rate is exempted from the Anti-Deficiency Act, as are over 15 other national programs such as the Highway Trust Fund, then the SLD would not have to wait until it has telecommunication fees in hand to cover the cost of approved discounts before it actually sends Funding Decision Commitment Letters to districts to help them in their planning, particularly for the development of applications for 2005. The 2005 window opens the middle of December and ends in February.

The sticking point is that Senator McCain included some proposed amendments which would have affected the boxing industry in terms of new regulations which the House opposes. One of the key lobbyists fighting for an E-Rate exemption from the ADA indicated that perhaps one solution would be for Senator McCain, who has “drawn a line in the sand” for inclusion of boxing legislation, to recede this amendment to another boxing bill on hold by the House submitted by Congressman Stearns (R-Florida).

The only E-Rate Funding Commitment Decision Letters which have been flowing are appeals for years prior to 2004 that have been found meritorious or other applications -- mostly for 2002 and 2003. About \$24 million of Funding Commitment Letters went out during the week of November 24 relating to these types of applications and appeals with another \$18 million remaining. Once the 2004 Funding Decision Commitment Letters are allowed to be sent, they will most likely apply to Priority 1 discount

requests which include Internet and telecommunication services.

It is no secret that this Administration is no friend of the E-Rate program having laid the grounds for its demise in the President's 2002 proposed budget, which would have allowed E-Rate discounts to cover staff training and instructional software. This proposal was quickly quashed by E-Rate advocates since they were aware that telecommunication companies would join the fray against the E-Rate program. This type of uncertainty confronting school districts affects their planning and development of applications for 2005; in addition, the reduction of \$200 million in the E<sup>2</sup>T<sup>2</sup> Title IV D FY 2005 budget now will require that more local and/or state funds be used for matching purposes in order to apply for E-Rate funds. These two factors are likely to reduce the number of districts and libraries that apply for E-Rate applications in the future.

### **Most New Charter Schools Use Federal Public Charter School Program (PCSP) Federal Dollars to Fund Professional Development and Purchase Technology**

A USED study of charter school growth and expenditures between 2000 and 2002 found that most new charter schools which receive Federal PCSP funds (averaging between \$80,000 and \$150,000 per school) use PCSP dollars to purchase instructional materials; specifically, 79 percent used PCSP funds

for professional development and 78 percent used PCSP dollars to purchase technology. The charter school program, which began during the Clinton Administration in FY 1995, was originally funded at \$6 million and has grown to \$218 million in FY 2004. The number of charter schools has increased from approximately 250 in 1995 to 2,700 in 2002. The median enrollment in charter schools has also increased steadily from approximately 140 students in 1999 to 190 students in 2002.

In virtually all states with charter schools, such schools have much greater flexibility in the area of teacher hiring than do regular public schools; however, most have to meet the state accountability requirements of NCLB. Another major difference between public and charter schools is that many more charter schools are either K-8 or K-12. Another difference is that charter schools disproportionately attract students and families who are poor or African-American.

In the five case study states of Texas, Colorado, Illinois, Massachusetts, and North Carolina, the report found that charter schools were "somewhat less likely than traditional public schools to meet state (student) performance standards." However, the report notes, "This finding, which does not imply a lack of charter school impact upon student achievement, may be linked to the prior achievement of students or some other factor. The design of the study did not allow us to determine whether charter schools are more or less effective than traditional public schools."

As the report notes, “Authorizing bodies are a critical component of the charter school movement and include a variety of entities,” a point which should be taken into account when deciding what types of charter schools should be given high priority in terms of potential technology and supplemental material sales. About 45 percent of charter schools are authorized by LEAs, while SEAs authorize 41 percent with about 12 percent authorized by institutions of higher education. LEA-authorized charter schools enroll about 90 percent of all charter school-enrolled students. The report notes, “Authorizers determine what schools to charter, monitor progress, and performance, and decide whether or not to renew the charter at the end of its term...In addition, the charter contract with its tailored outcomes may have diminished the importance in the current high stakes accountability environment.” In 2002, only six percent of authorizers have revoked a charter.

Because the supplemental education services provisions did not “kick in” under NCLB until the beginning of the 2002-03 school year, the study does not provide much information about the number or percent of charter schools which have been approved to provide supplemental education services. On one hand, charter schools would be ideally-suited, particularly those authorized by districts to provide SES services. On the other hand, the USED report noted that even though minority students are heavily represented in charter school enrollments, special education students are not. This suggests that many charter schools may

not wish to provide SES services to special education students which represent the major subgroup of students whose academic performance was less than targeted proficiency rates. On the other hand, if the primary purpose of NCLB is parent choice options, as Mark Cannon, Executive Director of the National Association of Charter School Authorizers noted in the November 24, 2004, Education Daily, “The report validates what is known about charter schools, that their strength is in serving the disadvantaged population and responding to a demand by parents for choice.”

For a state to qualify for Federal Public Charter School Program funds it would have to have enabling legislation which 36 states and D.C. currently have. States, in turn, award “startup” or dissemination grants to entities who wish to set up new charter schools. Where a state does not have enabling legislation, an eligible entity (usually a district or a university) can apply for “startup” grants directly from USED. The states with more than 100 charter schools as of January 2002 were California, Arizona, Michigan, Florida, Texas, and Wisconsin. For a copy of the report go to

<http://www.ed.gov/rschstat/eval/choice/pesp-final/index.html>.



## **Success in Preschool Market Requires Specific Targeting of States and Niche Markets Within States**

The preschool education appears to be in a volatile situation with funding and other factors which create a demand for products varying significantly among states, especially with sudden funding “ups and downs.” Moreover, there are several sub-niches within the preschool market, ranging from state-funded preschool to Head Start to special education preschool programs, which have different requirements that have to be taken into account. As a new report from the National Institute for Early Education Research (NIEER) at Rutgers University indicates, national averages are almost meaningless while clearer pictures regarding funding can be gleaned by focusing on specific states. NIEER’s new annual report found that 38 states had state-financed preschool programs for three- and four-year-olds and that, overall, state funding had increased from \$2.4 to \$2.5 billion between 2002 and 2003. For example, the report found for 2002-03 the total increases in North Carolina (\$23 million), New Jersey (\$110 million), Louisiana (\$18 million), represented more than the national increase of \$92 million across all states (i.e., 21 states had state funding reductions for preschool with average per-pupil spending dropping by \$90). States receiving a 10 percent or greater increase were Missouri, Massachusetts, Hawaii, Connecticut, Ohio, and Iowa. In a similar vein, some states with increases in preschool enrollments of 50 percent or

more in 2003 also experienced reductions in per-pupil expenditures for four-year-olds of 31 percent in Nebraska, North Carolina 10 percent, and Massachusetts 17 percent. On the other hand, in Nevada and New Mexico, where enrollments increased by 50 percent or more, per-child increases of 21 percent and 120 percent, respectively occurred. In state-funded preschool programs, the greatest state opportunities are where enrollment increases with additional funding to at least confirm the same per-pupil expenditure after the increase. Or in new state programs, such as Maine, where in 2003 for the first time 1.14 percent of the four-year-old population was served with a 19 percent increase of \$300 per child in state funding.

In addition to state funding, the NIEER report also identified other funding sources for pre-K programs. For example, in some states, Federal Temporary Assistance for Needy Families funds contribute to state-funded preschool programs and, in other states, Child Care and Development Funds (CCDF) support activities for parents and children. The amount of state funding per child enrolled varies considerably from \$8,700 in New Jersey to \$1,000 in Maryland. Nine states provide more than \$4,000 per child enrolled. Moreover, New Jersey serves almost 25 percent of the four-year-olds in the state. Other states provide a significantly lesser amount per pupil but serve a large percent of four-year-olds in the state; these include Georgia with \$3,800 per pupil serving 55 percent of four-year-olds; Texas providing \$2,000 per child serving 43 percent for the four-

year-old population; and Oklahoma providing \$2,300 per child serving almost 60 percent of the total number of four-year-olds in the state.

The other large pre-K program in virtually all states is Head Start funded at slightly more than \$6 billion and serving an estimated \$900,000 children, 87 percent of whom are three-or four-year-olds. Oklahoma, which serves almost half of the four-year-olds spends \$2,300 per child in state funds and \$1,400 in Head Start funds for four-year-olds served in Head Start. Georgia spends \$3,900 of state funds per enrolled four-year-old while an additional \$2,000 for four-year-olds served is allocated from Head Start funds. In addition to Head Start, of the 44 states reported in the NIEER report, 24 used IDEA funds to provide pre-K services for children and parents. In eighteen states, some Title I funds were earmarked to be used for pre-K programs.

State pre-K academic standards, types of assessments, and other factors which create the demand for different types of products and services vary considerably. Two years ago, the Federal Head Start program began to standardize the numeracy and literacy skills to be taught across all Head Start grantees and attempted to enforce the use of these standards through a National Reporting System which is supposed to be used to introduce accountability at the pre-K level. Implementation of the National Reporting System varies considerably among the large Head Start “grantees” (as opposed to states) in those situations. Where the Head Start grantee or “delegate grantee” also operate state pre-

K programs such as LEAs, there is a tendency toward more uniformity across the two programs. Indeed one of the stumbling blocks to the reauthorization of Head Start has been the Administration’s proposal to provide Federal Head Start funds as a block grant to states which would be combined with state preschool programs. Critics of such block grants have argued that as Federal Head Start funds are allocated to states, governors and legislators will reduce the amount of state preschool funding.

The NIEER report has a wealth of information for marketing specialists who are trying to identify what states to target with products and services. For a copy of the report go to <http://nieer.org/yearbook/pdf/yearbook.pdf>.