

**ELC Sponsored/USED Supported Conference on
Supplemental Services Leaves Many
State and District Officials Confused, Disappointed, and/or Even Angry**

A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT

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After the June 13 and 14 conference on Supplemental Services, more than 100 state Title I directors and their counterparts from large districts left the conference confused and disappointed due to lack of clarity in USED-provided guidance. Many of these same officials were also very disappointed and some quite upset that several vendors of supplemental services hold them as a captive audience during panel sessions, after crossing into the “gray area” of promoting their products and services.

The Conference was sponsored by the Education Legislative Council, a splinter organization of the Council of Chief State School Officers; the ELC includes, not only some state superintendents, but also other individuals representing the emerging accountability and choice “cult.” While the ELC took the lead role in the conference in the person of Lisa Kagan, former state superintendent in Arizona and now president of ELC, many of its close friends in the current USED, including Under Secretary Dr. Gene Hickok and Secretary Rod Paige, made prominent appearances reiterating the importance of bipartisan support for parental choice and supplemental services reflected in the No Child Left Behind Act. Two ardent Republican supporters, Senator Judd Gregg (R-NH), and House Subcommittee Chairman John Boehner (R-OH), also provided brief comments on the importance of the bipartisanship that was generated. However, neither George Miller nor Senator Ted Kennedy, who had been invited to present, were able to do so according to ELC spokespersons.

Some of the confusion and disappointment occurred during the first question asked of Assistant Secretary (for Elementary and Secondary Education) Susan Neuman, by the Minneapolis Title I

Director, a veteran of several Title I reauthorizations. She asked whether the districts have to give parents the option of selecting any service provider on the state-approved list even though the district had narrowed down the supplemental service providers they wanted to a much more limited number. Assistant Secretary Neuman noted that specific guidance would be forthcoming at which time Lisa Kagan interrupted and suggested that the nature of the questions to be addressed at this session should be at a more “global” level, reflecting broad issues and concerns rather than such narrow ones. Another question was raised by a service provider in response to the comment that products and services provided under supplemental services should meet the rigor of scientifically-based research. The president of this tutoring company asked on what basis of whose research would this be based -- an independent evaluator, the U.S. Department of Education, or some other group? Assistant Secretary Neuman responded that for sure it should not be based upon research paid for by the vendor. During an earlier conference reported in the last TechMIS, Assistant Secretary (for Educational Research and Improvement) Whitehurst specifically told members attending the Software Information and Industry Association Fly-In Conference that vendors are expected to pay for the clinical experimental control research and studies in a manner similar to the way drug companies pay for research which is submitted to the FDA for review and approval.

As reported in Title I Reports, USED officials have indicated that state education agencies have the authority to decide what service providers get on the “approved list” and that states may not have much practical authority to set minimum requirements for the qualifications of tutors. (The Secretary’s June 14 press release used the words “preferred providers.”) Also, states do not have to use the same assessments that they are required to use for Title I accountability to evaluate the performance of the service providers and noted that the law doesn’t provide much guidance on how this difficult task should be accomplished.

During an off-line conversation with Chairman Boehner, I indicated that a large urban district has decided to reallocate funds from other ESEA titles (under the 50 percent transferability provision) to Title I schoolwide programs which will likely result in supplanting of local and state funds because of state shortfalls. I also noted that a provision exists in the draft guidance related to Title II which provides opportunities for districts to allocate Federal Title II funds to meet state training and

licensure mandates by state legislatures which do not provide state funds to do so. He indicated that he was aware of concerns on both sides of the aisle in Congress relating to the “supplement not supplant” issue and that the Department would be issuing a statement shortly on this issue. A conversation with another USED official responsible for draft Title II guidance confirms that there had been a number of inquiries from senators and congressmen related to such loopholes which could be “red flags” to districts and state legislatures.

During the last day of the conference, a limited number of copies of a “Dear Colleague” letter from Secretary Rod Paige was provided to most attendees regarding public school choice and supplemental services. The tenor of the letter urged districts to implement plans immediately to ensure that schools which have been targeted for two consecutive years for improvement under Title I be capable of providing parental choice options and supplemental services when school opens in September. The guidance did clarify certain issues -- such as whether the district must cover the cost of transportation of students to a provider of supplemental services (to which the response is no). However, districts are required to provide 10-15 percent of the district’s Title I budget for the cost of transportation of students whose parents wish their low-achieving child to be transferred to another public school in the district or outside the district. On the other hand, if the number of low-income children in a particular school is great and a large number of parents wish to send their children to other public schools, the district may require that the school identify those “lowest achieving students” and transfer them until the transportation limit is met. However, numerous questions related to the definition of the “lowest achieving students” were not answered during the conference by officials or in the guidance. The letter, however, does clarify that, if a local district or even a provider of supplemental services is selected by the parent to serve his or her child, the services should be before or after school not during regular school hours.

During an ad hoc question-and-answer period after the formal program, two additional issues were raised. One such issue related to conflicts between the parent choice mandate and district desegregation plans. The letter states “if a desegregation plan forbids the school district from offering any transfer options, the school district should secure appropriate changes to the plan to permit compliance.” The USED lawyer emphasized that a desegregation plan can influence how

choice is provided “but it is not an excuse to get out of providing choice.” Another issue is whether or not supplemental service providers have to ensure they are not violating collective bargaining agreements between teachers unions and the district. The draft guidance clearly states that if parents select a supplemental provider the provider “is not party to collective bargaining agreements.”

The guidance clearly indicates that school districts or other nonprofit entities could also be placed upon the state’s approved list of providers. The targeted school cannot be the provider of an afterschool program. However, another school or a project developed by the district Title I office -- perhaps in partnership with supplemental materials publishers whose products and services have proven to be effective -- could provide such afterschool tutoring or other instructional services to low-achieving children if the parent selects this program. While there were numerous references to supplemental service providers having products which are based upon scientifically-based research, guidance indicates that the services be only “high-quality research-based” and specifically be designed to increase academic achievement of eligible children on the state assessments. As reported in Title I Reports (June 2002), Under Secretary Hickok stated “What we are saying about scientifically-based research is look at what is available. We don’t want to open this up to any Mom and Pop who wants to teach kids.”

The guidance does state that distance learning technology would be an allowable supplemental service provided online or through another distance learning medium if they meet the criteria established by the state education agency for all providers. Moreover, the service must be reasonably available in neighboring education agencies but does not have to be located in the school district to meet this requirement; only the services need to be available. Indeed, the guidance encourages the use of distance learning in rural areas and other areas which currently have a limited number of providers available in their district.

There was a “not so silent uproar” among many state and local Title I and other officials with respect to private sector involvement. On May 28, an e-mail was sent from USED to service providers, who for the most part were in the business of “taking over failing schools” (such as Edison and other companies involved in the Philadelphia Public School takeover) and a limited number of firms which

provide online tutoring. On the initial list of 20 plus invitees, none would have been classified as a publisher of supplemental materials. Those supplemental publishing firms who attended indicated that they heard about the Supplemental Service Conference “through the grapevine” or from other vendors, or from calls which we made prior to the conference. The USED website announcement of the conference wasn’t available until less than a week before the conference, or if it was, we and other firms were unable to find it. Many of these supplemental publishers or providers of supplemental products and services have strategies which are consistent with those of many district officials in attendance in that they would propose to “partner” with the district which would operate an afterschool or related program using the vendors’ products for students in target schools. This would be an alternative to having the district to hire an outside tutoring or other group, in which cases fewer dollars would remain in the district, but rather would follow the child to the service provider.

As a result of the conference, several district administrators who also attended the April NAFEPA conference indicated that they would be attempting to develop their own home-grown models using products that provide strong evidence that they work with well-trained teachers as an alternative to hiring firms that are in the school takeover business or provide external tutoring and related services. At least one state department official noted that he will do his “damndest to minimize the number of Title I schools who are targeted for improvement for three consecutive years and thereby reduce the need for supplemental services.”

As reported in Title I Reports, both presenters and state and local education officials were disappointed. Many of the representatives of potential service providers expressed frustrations that they didn’t have enough information as to what was expected of them and many of the state and local education officials “felt the conference contained too little of this and too much cheerleading from proponents of educational privatization.”

The Secretary’s guidance letter is available at the www.ed.gov/News/Letters/020614.html.