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MEMORANDUM

DATE: December 19, 2008
TO: TechMIS Subscribers
FROM: Charles Blaschke and Blair Curry
SUBJ: Likely Policies and Priorities Under the New Administration

Gazing into a hazy crystal ball, only five days after the announcement by President-Elect Obama of Arne Duncan as Secretary Designate, we have identified a number of policy changes and priorities we see likely happening -- some rather quickly, as well as others evolving over time. These are based on the assumption that the economic situation will begin to improve early next year through the proposed economic stimulus package which will include some funding for education and technology-related projects, and Federal education funding will at least be level over the next 18 months. As developments occur over the holiday season and early next year, we will keep you apprised, along with our analysis of implications for subscribers. Attached with this special report are two related Washington Update items which will also be included in the final December/January TechMIS issue in mid-January.

In the meantime, all of us at Education TURNKEY Systems wish you and your associates happy holidays and a prosperous new year.

Sincerely,

Charles

Likely Education Policy and Priorities Under the Leadership of Secretary Designate Arne Duncan

*A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT*

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December 19, 2008

As one reads the media coverage of President-Elect Obama's recent news conferences, particularly the one in which he selected Chicago Public Schools Superintendent Arne Duncan as his Secretary of Education, one can identify some of the priority themes which the new Administration will attempt to establish and implement over time. Discussions with several influential groups, a review of their recommended action plans for transition team members, and further discussions with veteran education policy experts also suggest some immediate steps -- perhaps within the first 100 days -- that the new Administration will undertake. These are highlighted below.

During the first 100 days or thereabouts, one can expect a number of activities which will likely be quickly passed by Congress and/or implemented through the administrative and regulatory process. At this writing, education groups are collecting data to justify inclusion of education and directly-related projects in the \$700+ billion economic stimulus package which Obama has called for. It is likely that such funds could be used for projects related to school construction, upgrading education technology for teachers and students, and broadband infrastructure expansion, among other projects designed to speed up economic recovery. Recent discussions with the National Association of State Budget Officers suggest that one large component of the economic stimulus package will be an increase in the Federal portion of states' budgets for Medicaid. This will free up state funds to be used for other purposes, including making up for deficits in K-12 budgets. Caps on the number of eligible recipients for Medicaid are already being reduced in many states.

Among the activities which can be handled through the regulatory and administrative process are to nullify or defer implementation of some current USED policies and/or the recent Title I final regulations. Limiting implementation of the regulations is increasingly being justified by tighter budgets confronting districts (as noted in a related [Washington Update](#) item). As superintendent in Chicago, Duncan is acutely aware of the unnecessary costs and counterproductive consequences of such policies and regulations as they affect Title I, particularly supplemental educational services, which is one of the highest priority areas of concern among education groups. According to reliable sources, the Obama transition team is carefully reviewing the regulatory and policy framework

created by the Bush Administration.

During 2005, Duncan took on Secretary Paige (and later Secretary Spellings), who formulated a policy (which was not in NCLB legislation) that would not allow a district identified for improvement to provide supplemental educational services (SES). As a result of a well-publicized political battle, Secretary Spellings created a National Pilot Program which allowed Chicago and eventually three other districts to provide their own SES, along with services provided by third parties which had been approved by the SEA. Earlier this year, under the Differentiated Accountability Model pilot, USED approved the Illinois SEA request to allow any district identified for improvement to provide its own SES if approved by the SEA. One of the first actions the Duncan team will likely make -- with support from the most vocal association on this matter, the Council of the Great City Schools -- will be to nullify this Bush policy clearly delegating the sole responsibility for approving SES providers to SEAs, which the USED Office of Inspector General said is the "letter" of the Law. Allowing districts with a "demonstrated record of effectiveness" the possibility of being approved by the SEA as an SES provider is likely to expand the number of students participating in SES by more than 100 percent. The Council's previous research found that, in district-provided programs, 25 percent of eligible students participated compared to ten percent in SES programs operated by third parties. In Chicago, according to the CGCS evaluation of SES costs, the district-operated program cost \$4-5 per hour compared to \$18-20 per hour for private SES providers. Achievement gains of students were similar. During the recent Education Week webcast on the "New Education Secretary's Impact on Schools," Frederick Hess of the American Enterprise Institute stated, in response to the question as to what might be expected of Duncan in the area of supplemental educational services, "I think it's safe to assume that SES is going to be substantially revisited during the reauthorization whether that proves to be 2009-10 or what have you. Certainly Chicago's complicated experience with SES would be expected to inform Duncan's approach."

The Duncan team is likely to call for nullifying or deferring implementation of other SES related provisions in the final Title I regulations including:

- the new regulation on unspent 20 percent SES set-asides, which not only drives up district administrative costs, but also could require the carry-over of such funds to set aside for the subsequent year, thus depriving students from receiving the SES regular Title I services; or it could result in unexpended funds, if they exceed 15 percent, being returned by the district to the Federal Treasury;
- a regulatory provision which would cap the position of the 20 percent set-aside for administering SES programs at only one percent, when the actual administrative costs are significantly more.

By making the above regulations null and void, more districts will provide their own SES and serve more students at lower per-pupil cost, while at the same time creating more opportunities for firms to partner with such districts by selling products and training and support services. Allowing more of the 20 percent set-aside to be used for district administrative purposes could create opportunities for firms with products and applications which can be used in facilitating the administration of SES programs.

Both Obama and Duncan have proposed the use of incentives or bonuses for teachers based on increased performance of their students, using multiple measures jointly agreed upon with teachers. One might reasonably expect Duncan to strongly encourage more local affiliates of the NEA and AFT to provide SES and to encourage districts to negotiate contracts with both teacher groups and third-party providers to include incentives based on SES participant achievement. Two of six model SES programs identified during the last year of the Paige Administration were teacher-operated SES programs in Toledo, Ohio and Rochester, New York.

There is the possibility of a number of additional changes prior to NCLB reauthorization which could be made administratively. One would be to allow SEAs and districts to use the so-called “same subject-same subgroup” method for determining when a district or school is failing to meet AYP and is identified for improvement. By using this method, which was previously approved for use in more than 20 states, the increasing rate of districts and schools identified for improvement would be slowed by 30-40 percent over the next several years according to some estimates.

Several changes to current regulations related to school restructuring might also be made, including:

- Allowing districts to enter into “school improvement” action much earlier, and implementing interventions for a longer period, such as three years, which groups such as the Council of the Great City Schools argue would decrease the number of schools entering restructuring.
- Requiring states to allocate the four percent set-aside and School Improvement Grants to districts and, in turn, to schools based on a “most in need” formula and prescribing a certain percentage of such funds to be used, during the three-year intervention period, for instructional strategies such as differentiated instruction, instructional coaching, data-driven decision-making professional development, formative assessments, and extended time programming and supplemental services.

In his testimony before the House Education Committee in July, Duncan identified a “few simple strategies” that were used in Chicago, including, “Before the accountability and intervention measures of NCLB, Chicago took the initiative to hold students accountable to annual state assessments, to identify students in the most chronically failing schools, and to provide intervention services including mandatory summer school, after school programs, alternative schools w/ smaller class sizes and extended day programs.”

Based on comments made by Obama and a careful reading of testimony in July by Duncan, we have identified below what we feel will be some of the priority education initiatives that likely will evolve over time. Some of them may be introduced as pilots through the regulatory process, while others will likely require legislation either separate from or as part of NCLB reauthorization. All will require increased funding, either reallocated from other programs or increased appropriations in the FY 2009 budget and

subsequently. Moreover, the evolutionary nature of these initiatives will be based on available research and evidence, but grounded in pragmatism in the context of what Duncan feels will work and fits into his vision.

Two often-mentioned priorities of Obama, also reflected in Duncan's testimony last July, are early childhood education, including pre-K and Head Start, along with increasing making college more accessible, especially for low-income students. The former initiative may require legislation and certainly large increases in Federal funding (e.g., Obama called for a \$10 billion increase during the campaign). The second goes beyond making college affordable; in the words of Obama, "We expect our children to not only graduate high school, but to graduate college and get a good paying job." This particular initiative is very similar to the Gates Foundation's revised philanthropic strategy announced in November; one might anticipate an evolving Federal partnership with the Gates Foundation (see related [Washington Update](#) item). One of the more recent Duncan initiatives in Chicago is targeting high schools through a pilot program which ensures curriculum alignment with state standards and assessments. In light of the recent research conducted by ACT ("The Forgotten Middle") showing that only two in ten eighth-grade students are on-target to be college-ready by the time they graduate, one can reasonably expect middle school initiatives, such as Striving Readers and similar programs for students struggling with math, to become a higher priority perhaps with funds reallocated from other programs such as Smaller Learning Communities to implement them. One notable piece of legislation submitted by Obama in 2007 was the Success in Middle School Act which specifically focused on "the whole child" and relied heavily not only on effective instructional interventions for struggling students, but also behavioral interventions and supports.

While Obama has called for a doubling of Federal funding for charter schools, Duncan's perception of charter schools, as implemented in Chicago, differs from the traditional charter school perception. In Chicago, more than 20 schools in restructuring have become charter or contract schools which are not designed to compete with public schools, but rather to provide options for students with different interests and learning styles. In other cases, the charter schools may also provide options for teachers that have different teaching styles and approaches. In both cases, they appear to be more like "magnet" schools which, in many cases, have served as "incubators" for innovative approaches. Studies of charter schools elsewhere have found they are not much of a departure from traditional public schools. One might reasonably anticipate that more "magnet-type" charter schools may be funded out of set-asides and Federal grants designed to help schools in restructuring to complement other approaches similar to those used in Chicago Public Schools, such as extensive use of turnaround experts and instructional coaches.

On numerous occasions, Obama has talked about placing a higher priority on mentoring for new teachers and new induction programs and initiatives. Indeed the press conference in which Obama announced Duncan as Secretary Designate was held in a turnaround school that reopened as one of six Teacher Training Academies Residency Mentoring Programs. The Renaissance Academy was Illinois' highest gaining school in

2005-06 in math and reading as reported by Education Daily (December 17th). The almost \$3 billion a year in funding from the Title IIa Teacher Quality Program, which has been used mostly to reduce class size, will likely be redirected to allow for increased new teacher mentoring and induction, the use of incentives to encourage effective teachers to teach in low-performing schools, and to create and expand the use of “professional learning communities,” in which teachers can collaborate and provide support to each other. In addition to redirected use of Title IIa funds, Duncan, who relied heavily on instructional coaches, will likely seek greater Title IIa flexibility by allowing such funds to be used to train non-core subject area teachers, such as reading coaches, intervention specialists, graduation coaches, etc.

Although an Obama campaign spokesperson stated, at the June 2008 AEP Summit (see July Washington Update), that “Good teachers are the interventions.” One can anticipate continued policy support and funding for early intervening services/RTI approaches with teacher training, especially in the use of assessment data to inform instruction as a high priority. In terms of instructional interventions, greater specificity is not likely to be prescribed beyond priorities placed on “multi-tier interventions”; on the other hand, behavioral interventions and supports, as reflected in Obama’s proposed Success in Middle Schools Act, will receive equal weighting. This will be proposed in the context of providing for “whole child needs.” In an interview reported in Education Daily (December 17th), former Chicago Public Schools Special Services Director Sue Gamm, who served under Duncan through 2003, in her one-on-one discussion with Duncan prior to her retirement on the subject of response to intervention in special education programs noted that Duncan “has a sense of the issues.”

Numerous media articles have provided examples of how Duncan advocated and implemented technology applications in the Chicago Public Schools which could provide a glimpse into how Obama’s promise to provide more funding for infrastructure, computers and the development of 21st century skills might evolve. These include a high school that has replaced textbooks with web-based core curriculum (ESchool News), virtual online courses and direct instruction through the Chicago Virtual Charter School (Education Daily, December 18th), and professional development and leadership training for administrators. And, as noted in Education Daily (December 18th), numerous science, technology, engineering and math (STEM) groups point to additional examples of how the \$500 million Technology Innovations fund Obama called for during his campaign would be spent. The question, however, is where will the funding come from -- the economic stimulus program, reallocation of existing programs, or additional funding for E²T² (e.g., the proposed Attain Act supported by various education technology advocate groups).

In his closing remarks during testimony last July before the House Education Committee, Duncan stated, “We also appreciate the core goals of the No Child Left Behind law, including performance transparency among subgroups and higher standards for all, but we think the law can be improved in other ways that will advance the same goals.”

Washington Update

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Bill & Melinda Gates Foundation Begins Implementation of New Initiative to Double the Number of Low-Income Students Who Enroll and Complete a Post-Secondary Degree, Including over \$30 Million to Expand and Improve Community College Remedial Programs

On December 9th, the Bill and Melinda Gates Foundation began to implement its new post-secondary strategy -- described in the December TechMIS [Washington Update](#) -- by allocating nearly \$70 million to almost two dozen entities across the country. According to the press release, "The grants announced today reflect the foundation's commitment to using data to shape its investments by building on the most promising programs and policies already underway, catalyzing innovation in areas where there has been limited success, and, over the longer term, bringing the most promising practices to scale." Hoping to double college completion rates for low-income and minority students, the Gates Foundation further notes, "A critical barrier to postsecondary success is a poor preparation of many incoming students and the ability of colleges to adequately address this problem. Nearly half of all college students require some remedial instruction, a number that rises to nearly 60 percent in community colleges...Foundation investments will be aimed at accelerating success in remedial courses in community colleges, including a grant to MDC to build on successful pilot programs within the Achieving the Dream network of schools."

Indeed, the largest of the Foundation's grants -- \$16.5 million over four years -- went to MDC of Chapel Hill, North Carolina, the managing partner of the four-year-old Achieving the Dream initiative which has grown to 82 institutions in 15 states. In addition to the Gates Foundation, more than \$100 million from the Lumina Foundation and 18 other funding organizations will be part of the Achieving the Dream demonstration project through 2012. At the heart of Achieving the Dream's mission is to help colleges use data-driven decision-making tools to develop, and then refine on an ongoing basis, college remediation programs. According to Achieving the Dream fact sheet, some of the strategies that have been demonstrated to be effective among the current 58 community colleges in nine states have been:

- "Instructional techniques, such as collaborative learning, paired classes and learning communities; and
- student success courses, which teach critical skills, such as time management and study skills."

Examples include Valencia Community College in Orlando, Florida where peer group leaders were trained and courses were team taught; and the use of problem-solving activities in small groups to reduce attrition rates of students in remedial reading, English and math courses in Patrick Henry Community College in Martinsville, Virginia.

TechMIS subscribers which have data-driven decision-making tools, accelerated remedial programs, and other products which could be used to improve community college remediation programs might wish to explore such possibilities with MDC or its participating colleges. Unlike several Federally funded evaluations conducted over the last eight years to assess the effectiveness of technology interventions in K-12 reading and math programs, the expanded Achieving the Dream project appears to be more likely to identify effective programs and practices based on analysis of data and evidence and to promote expansion of such programs throughout the community college remedial niche market, which is estimated to be over \$2.5 billion annually and growing.

For a copy of the MDC press release go to: www.mdcinc.com

As More Districts Are Confronted With Tighter Budgets and Revenue Shortfalls, Education Groups Are Calling for an Implementation Deferral of New USED Final SES Regulations Which Strongly Suggests the New Administration Will Place a Very High Priority on Such Deferrals or Nullification During its First 100 Days; Current and Anticipated Budget Tightening Becomes a Major Justification

In late November, the National School Boards Association released its message to the transition team. Entitled "Federal Regulations Adversely Impacting Academic Achievement in Public Schools," it stated, "In our view, these new Title I regulations will force schools and school districts across

the nation to re-direct resources to meet new and unnecessary requirements that will be disruptive to current operations and in all likelihood will be modified when the *Elementary and Secondary Education Act* (ESEA) is reauthorized during the 111th Congress." As reported in Education Daily (December 11th), the American Association of School Administrators (AASA) in a meeting with the transition team on education policy, that included Linda Darling-Hammond, called for suspending several "education-related Bush administration rules and regulations they argue are a costly burden during the economic downturn." In a recent discussion, Bruce Hunter, AASA's Associate Executive Director for Policy, said AASA is calling for a halt to any enforcement or implementation of the new Title I regulations. In the November/December issue of the Urban Educator, the Council of the Great City Schools printed its open letter to the next president of the United States dated October 22nd which stated, "The new administration should start by reviewing and suspending all regulations that go beyond the letter of the law." As we noted in last month's TechMIS Washington Update, the Chief State School Officers have also strongly urged the Obama transition team to suspend or defer implementation of the final Title I regulations. In light of the tightening budgets confronting districts across the country, the Title I regulations considered by the new Obama Administration to be the most unnecessary and costly to implement are likely to be suspended.

At the top of NSBA list is the use of unspent Title I 20 percent set-aside for supplemental educational services (SES) and choice. As its paper for the transition team states,

“While the final regulations offer some relief in permitting school districts to release the set-aside funds if they meet the criteria established by the new regulations, the final regulations provide for review and certification by the state education agency -- with the added requirement that if the criteria for releasing such funds have not been fully met, the amount of any unauthorized release of funds will be added to the 20 percent set-aside requirement in the subsequent year. In implementing this requirement, school districts could find themselves with the financial obligation for a subsequent academic year that is unnecessary or financially problematic to fulfill -- especially at a time when a number of school districts, local governments and states are grappling with serious budget shortfalls.” NSBA also called for two additional regulatory actions. One would repeal Medicaid regulations which would eliminate Federal reimbursement under the Medicaid program to school districts for certain administrative costs and types of transportation provided to students with disabilities; this has been estimated to cost school districts \$3.6 billion over the next five years. NSBA also calls for the suspension of the Federal Communications Commission (FCC) rule and Executive Order of the Anti-Deficiency Act (ADA) which would force many school districts to drop out of the E-Rate program.

In its comments on Title I final regulations, AASA referred to the regulations related to unspent SES set-aside funds (and the conditions under which districts could reallocate such funds for other purchases) as a “locking up” of districts’ Title I grants under the assumption that parents are not choosing SES and choice because of districts’ unwillingness to pay for it. Calling

this assumption “simply incorrect,” AASA justified its opposition on the basis that the assumption “will result in the waste of millions of dollars appropriated for Title I that are sorely needed by school districts.”

Although not mentioned directly in the Title I final regulations -- but included as a long-term USED policy initiated under Deputy Secretary Hickok in 2004 and reflected in previous Non-Regulatory Guidance -- the policy of not allowing districts identified for improvement to provide their own SES (with the exception of the four districts in the National Pilot Program) will increasingly be considered a “bread and butter” issue for district funding as budgets tighten. Suspending this policy because it does not meet the letter of the Law has been a top priority issue for the Council of the Great City Schools from the beginning. Recent discussions with NSBA and AASA lobbyists confirm that this is also a policy which should be suspended. Even though the Council of Chief State School Officers is not impacted directly in terms of funding, the restriction does have an impact on SEA responsibilities. As the USED Office of Inspector General stated more than two years ago, USED does not have responsibility for determining whether an SES provider should be approved; that responsibility rests solely with the state departments of education.

If the new Administration suspends or nullified the unspent SES funding regulation and the policy that no district identified for improvement be allowed to provide SES, then the impact should be major, affecting well over \$2 billion, how the funds are spent, who provides the SES, and how many students will participate. It should be noted that Arne Duncan, Superintendent of

Chicago Public Schools “took on” USED early, finally getting approval from Secretary Spellings to continue providing SES, even after his district was identified for improvement.

