Washington Update[8]

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USED Slowly Approving Some Requested Amendments to State Plans and Generally What They Mean

More than 40 states have requested amendments to their state accountability and assessment plans as a result of USED newly-found policy flexibilities in April and May. The initial deadline of April 1 was extended to June 1 (and later to June 15) to allow states to decide whether they wish to take advantage of interim policy guidance which allows them to take advantage of the two percent flexibility for students with academic disabilities. Below are the types of amendments which have already been approved verbally by USED for certain states from which one could infer some general trends relating to subsequent approvals for the remaining states which have requested them.

One of the biggest issues in urban districts is whether a district identified for improvement can continue to provide supplemental educational services. During the last year, USED has approved amendments in about ten states which would allow states to identify districts for improvement only if districts' AYP targets in math and reading across three grade level spans failed to meet targets for two years in a row. Newly requested amendments from Alabama, Indiana, North Carolina, Oregon, and Wisconsin, according to Education Daily (June 22), have been approved. This will most likely result in fewer districts identified for improvement and, where these districts have provided state-approved SES, they will likely continue to provide such services. Hence, these districts and those in the previously approved states could represent good opportunities for firms to "partner" with districts to provide their own SES.

Another way to reduce the number of schools or districts identified for improvement is through the use of statistical techniques, such as "confidence intervals," for making adjustments when calculating AYP. Over the last year, an increasing number of states have applied confidence intervals to the "safe harbor" provision in the Law which allows a district flexibility in meeting AYP if the number of students in a specific subgroup which does not meet proficiency levels does in fact decrease by 10 or more percent compared to the previous year. Delaware, Indiana, and Wisconsin, according to Education Daily, have had confidence intervals applied to safe harbor approved as amendments to their plans.

On June 23 Education Daily reported that of the 42 states which have submitted amendments to take advantage of the new interim policy related to the two percent AYP calculation for "academically-disabled" students, seventeen states have been approved verbally. Virtually all of these states will use Option 1 which would require the development or selection of an alternative assessment for this calculation with alternative achievement standards tied to grade level content. Moreover, all but one state would apply these calculations, which would usually increase by 10-20 percent the AYP scores for the special education subgroup. The most likely reason for states not applying for the two percent flexibility was a requirement that the state would have to reduce its "N size" for the special education subgroup to the same size as other subgroups. States which have received verbal approval include Arizona, California, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Maine, Maryland, Mississippi, Nebraska, North Carolina, Oklahoma, South Dakota, Tennessee, and Washington. As these and other states begin to implement these to-be-developed or to-be-selected assessment instruments, increased opportunities exist for different interventions and assessment instruments as noted in the TechMIS Special Report of June 30.

One of the changes requested by more than 40 states last year was to allow SES to be offered at the same time, or even before, the transportation choice option. Last year, these requests were denied. While many states made similar requests this year, official notifications of these specific requests has been disregarded for the most part. One possible reason was that the June 13 SES guidance (described in the June 30Special Report) contains language that, under an increased number of conditions, SES can be offered and if the district follows the SES requirements, such Title I funds could be used to pay for SES in schools identified for improvement for the first time (see Special Report). As noted in previous reports, Florida has already approved districts' requests to implement SES through district-operated and approved programs during the first year a school is identified for improvement, as is the case in Hillsborough County. Florida has also requested USED to approve an amendment that would allow a Florida "A" or "B" school under the State's accountability model to receive "provisional" Federal AYP approval, even though it failed to meet the Federal AYP proficiency targets. If USED approves Florida's request, then states with their own state accountability model will either pass state legislation (e.g., Utah) allowing state accountability systems to take precedent over Federal accountability AYP criteria, or submit similar amendments which will result in dual accountability systems in almost half of the states.

Illinois State Policies on SES Conflict With New USED Guidance – Resolution Could Establish Precedent

Bolstered by the previous confrontation between USED and the Chicago Public Schools, the Illinois State Board of Education has adopted regulations which would increase its oversight of SES, particularly those SES provided now by third parties in Chicago. In several areas, the State Board rules conflict with USED guidance released three days later. The Education Industry Association has been particularly active in pointing out these conflicts. Most of the new rules follow the intent of the Law and represent a commonsensical approach, such as improving the rigor of the State approval process by analyzing providers' program designs to see whether there are appropriate diagnostic prescriptive capabilities which are based on individual student needs and whether the test and materials are aligned with State content. The Education Industry Association press release of June 16 points to rules conflicting with the new SES Non-Regulatory Guidance; its specific objections to the State Board rules include:

- Excluding as an SES reimbursable cost, the marketing expenses to inform parents of their SES eligibility, will have a chilling effect on enrollment;

- Requiring detailed financial reporting of provider costs by specific line items rather than relying on performance data to help parents make choices about providers;

- Public reporting on detailed financial information which violates confidential handling of proprietary information;

- Treating for-profits differently than governmental or non-profit service providers which have discriminatory effects.

EIA points to the new SES Non-Regulatory Guidance which "defines 'actual cost' as the amount of dollars the provider charges for services." The Law states that the provider can charge a fee that is equal to the amount of eligible Title I per-pupil allocation or the actual cost of providing the services, whichever is the lower. In certain cases the fee can be higher than the per-eligible-pupil allocation. The new rules also allow states to evaluate, through site visits and the statewide data tracking system, the performance of students participating in SES. In testimony before the Workforce and Education Committee last month, Chicago Public School officials strongly argued that they should have the right to conduct evaluations of the performance of students participating in different service provider programs and should have the right to terminate services of those providers whose participants were not performing well. This district governance responsibility is addressed only obliquely in the SES guidance which states that the district could terminate the service for a specific student participant if that participant is found to be not benefiting from participating in the SES.

An underlying issue beyond the new State Board of Education rules is whether Chicago Public Schools may resume providing Title I-funded SES that were disallowed because of USED policy developed under the previous Paige regime which disallowed districts that were identified for improvement for continuing to provide SES. Even though this prohibition continues in the new SES guidance, pressures continue to build to provide additional flexibility as noted in the June 30 Special Report. As reported in Education Week (June 22), Mike Casserly of the Council of Great City Schools, which has remained a supporter of No Child Left Behind, is quoted as saying the SES Guidance is one more nail in the coffin of local control of schools. Jack Jennings, President of the Center on Education Policy, stated that the restrictions of the new SES "leaves districts at the bottom of the heap." Instead of helping school districts improve, he stated that the Guidance was "oriented toward helping providers provide services."

Standard & Poor's Study of Urban School Districts Addresses "Myths" of Urban Education

Standard & Poor's has analyzed data from 25 of America's largest urban school districts for 2002 to determine if the reality of urban education match public perceptions. Entitled "Fact or Fiction: Data Tell the True Story Behind America's Urban School Districts," the study looked at four perceptions commonly held about urban districts and attempted to debunk them as "myths."

The first such perception is that *Urban Districts Spend More Than Other Districts*. S&P found that average per-pupil core spending (i.e., excluding such support services as transportation, food service, building construction, debt payments) for urban districts was $8,035 compared with the national average of $7,051. However, S&P argues, these figures should be adjusted to account for differences in purchasing power and for the proportion of students with special needs in urban districts. Using New York City as an example, the study indicates that the City enrolls about 38 percent of the State's students, but nearly two-thirds of the State's special needs students. After making somewhat arbitrary adjustments for the two factors identified above, the study concludes that New York City's core pre-pupil spending was only $6,170 compared with the State average of $7,315. S&P cited Philadelphia as having a similar effect but did not cite results form the other districts analyzed.

The second perception addressed by S&P is that Academic *Performance in Urban Districts is Not Improving*. Acknowledging that proficiency scores in reading and mathematics are lower in urban districts than in other districts, the study argues that urban students are showing gains in proficiency that are greater than those of their counterparts in non-urban areas. It found that 80 percent of the urban districts in the study showed larger gains between the 2001-02 and 2002-03 school years than their state averages. The study cited, as examples, New York City (4.3 percentage point gain vs. 2.6 percentage points for the State) and Boston (2.6 percentage point gain vs. 1.3 for the State).

The third perception addressed by the study is that *Low Test Scores, Graduation Rates and College Attendance Rates Are Primarily an Urban, Minority Problem*. The study indicates that, in absolute terms, the number of White students who fail to graduate from high school or from college is much greater than the number of African-American or Hispanic students. More than two million Whites fail to get a high school diploma compared with about 500,000 African-Americans and 1.2 million Hispanics. While true, this assertion tends to minimize the very significant differences in the rates of attendance and graduation between White and minority students.

The final perception S&P deals with is that *Urban Schools Do Little to Help Students Learn*. The study counters this claim by identifying 397 schools called "outperforming" -- that is, they improved student achievement above their State average, although their enrollment is 75 percent economically disadvantaged. While impressive, these districts represent only 14 percent of the schools in the study sample, a fact that highlights the problems facing urban education.

Highlights of Association of Education Publishers Meeting

One of the AEP conference keynoters, Anthony Carnivale, pointed to the importance of revenue-raising (taxing) approaches to the growth of the supplemental materials market. He projected that niche markets which address the needs of disadvantaged students (e.g., Title I and IDEA) will continue to grow as long as courts continue to force state legislatures to increase state funding, especially to remove the inequities between "revenue-rich" and "revenue-poor" districts. He appeared to be somewhat optimistic that a "new logic" is prevailing in the courts regarding "adequacy" law settlements; now courts know what it cost to remove inequities, and just say just go do it. However, he also noted that such pressures may break the financial system supporting education, impacting niche markets initially. To generate revenues, states will have to begin taxing more heavily the service industries, whose taxes the education system will increasingly have to rely upon. He also noted that, along with the standards movement, has come the demise of local control over education, noting that "local control is just buying time." Such pressures for standards-based education have come from the need to make U.S. graduates more competitive in the global economy. He also predicted that the time frame for K-12 education is going to have to be collapsed to achieve efficiencies and this can be done through the growth of the standards movement. Carnivale, a highly-respected economist who held key positions in the U.S. Bureau of the Budget during the 1970s and served as an education policy director while at Educational Testing Service, is currently a senior fellow with the National Center for Education and the Economy, which, over a decade ago, developed one of the fastest growing comprehensive standards-based comprehensive programs called "America's Choice."

During a session on Scientifically-Based Research, Saundra Young of Knowledge Quest suggested a number of practical ways that publishers can collect evidence for district officials when they are asked for scientifically-based research which supports their product or service. Arguing that the randomized assigned control designs and the costly "gold bar" have been met by only a few companies or independent third parties which have conducted such large scale and costly efforts. One alternative is to develop a White Paper which compiles research which identifies practices and approaches that have proven to be effective in increasing student performance. The White Paper would address how the product or services facilitate the implementation of such effective practices. A second approach is to determine whether the product "adds value" to student performance. Here, publishers should identify schools that are implementing their approaches as recommended and have produced significant student results. She also suggested a need to match demographics of comparison schools as much as possible to the treatment schools.

Another approach is quasi-experimental designs which approach the "gold bar" but are difficult to determine "causality." She also noted that district officials often request information on factors or practices which are used by teachers in schools in which their products or services increased student performance. She referred to this type of information as "best practice research."