MEMORANDUM

DATE: November 27, 2012
TO: TechMIS Subscribers
FROM: Charles Blaschke, Blair Curry and Suzanne Thouvenelle
SUBJ: Likely Education Policy Impact of Election Results

Even though the lame duck session in Congress has just begun and the impact on education policy changes policies during the Obama/Duncan second term will be affected by outcomes related to fiscal cliff and the FY 2013 budget, we have outlined below some of the most likely priority and policy changes which could occur during the second term. Very shortly, we will also be sending TechMIS subscribers more detailed possible scenarios on the impact of the election on the EdFlex State Waiver Guidance and implementation and early childhood education. As always, if you have any questions, please contact me by calling my cell 703-362-4689.
As we noted in our November 14th Federal Funding Update, specific education programs and initiatives were not major debated issues during the Obama and Romney campaigns. Rather, sequestration, the fiscal cliff, and “taxing the wealthy” stole the stage and are now beginning to be addressed during the lame duck session. Even though the resolution of these issues during lame duck and early next year are by no means certain, we have attempted below, under a number of assumptions, to address the impact of the election on major education policies and initiatives. These are based on the Obama/Duncan Administration’s current priorities and those which are likely to emerge or otherwise change in Congress.

Before addressing likely policy implementation scenarios, particularly related to Obama/Duncan State Waiver initiatives, it is important to highlight some recent statements by Republican Chairman John Kline (R-MN) of the House Education & Workforce Committee reported, right after the election results were known, by Politics K-12 blogger Alyson Klein (November 7th). In the interview, Chairman Kline mused about possible ESEA reauthorization: “I think both sides will probably stick to principles…There is pressure to get stuff done, and maybe that pressure will help us come together…We need to get legislation that will move us away from unilateral actions of the administration…States who have requested and even been granted these waivers are not happy with them.” Regarding the waiver initiative, he also stated that it is “very likely” that the Committee would be doing more oversight on implementation of waivers, which Senator Michael Bennet (D-CO) and Secretary Duncan have also agreed will be needed. Chairman Kline felt there currently exists bipartisan cooperation relating to charter schools and teacher evaluations, about which the likely ranking member on the Senate HELP Committee, Lamar Alexander, has disagreed. Regarding special education support, Kline reportedly stated that he would try to protect special education funding as much as possible and then work from there to get closer to the 40 percent mandated Federal contribution to the excess costs of serving students in special education programs. He concluded, “My preference is always to give the priority to special education funding and then work from there.”
At the recent Council of Chief State School Officers meeting, Secretary Duncan alluded to some policy redirections and priorities during the Administration’s second term, assuming that he remains Secretary of Education, which is very likely. Regarding ESEA reauthorization, he indicated that the Administration would help by taking a leadership role, but “Congress has to want to do it.” In response to several questions, Duncan suggested that the Administration would not support a reauthorization bill which did not incorporate some of the major tenets of the state waiver initiative. He also indicated that there would be greater emphasis on principal evaluation and, as the Politics K-12 blog (November 16th) noted in a follow-up interview, Title II could be the vehicle for professional development type activities and possibly School Improvement Grants. Politics K-12 blogger Michele McNeil also reported that, based on her interview with the Secretary, two-thirds of the schools in the School Improvement Grant (SIG) program “are seeing gains in reading and math, with slightly better performance in elementary schools. But one-third of all SIG schools showed no improvement.” Not surprisingly, early childhood education and improving college access remain high priorities, with states continuing to have a major role to play. Regarding the Race to the Top-District competition, the Secretary stated, “We do want to see innovation at the district level. I think it’s important we play there.”

Although, during his formal remarks, Duncan indicated district-level waivers are “off the table,” he clarified in a later interview that, even though the Department’s focus is on state-level flexibility, “district waivers are very much still on the table.” This suggests that, as McNeil noted, in states that for whatever reason do not receive a waiver, district-level waivers might be pursued. And finally, Duncan reiterated that the major issue confronting him during the second term will be implementation of state waivers and managing state flexibility in such a way to maintain accountability for achieving goals.

If Chairman Kline and Speaker John Boehner are able to maintain their positions in negotiations with the Obama/Duncan Administration during, and possibly after the lame duck session (i.e., fending off hard line pressures from Tea Party factions), they will be able to influence the direction of current reform policies. Several important fundamental assumptions will also influence such future policy directions: (a) the impact of sequestration in the immediate future on major education programs will be minimal; and (b) the resolution of the $5 billion shortfall and other problems with Pell grants will not have a major impact on K-12 funding as Title I and IDEA funds will not be reallocated to resolve Pell grant problems (see November 14th Ed Money Watch). Under these assumptions, the following scenario is likely.

ESEA reauthorization is not likely to occur this year or next year even though Senator Tom Harkin, who chairs the Senate education authorizing and appropriations committees, within three days of the election results, called for an early ESEA reauthorization in the next year. As we have previously reported, of the five Kline components of the reauthorization, he was able to pass through the House one relating to charter schools. The four remaining reauthorization components are very different from those reported out of committee by Chairman Harkin (which in many cases reflect the Obama “Blueprint” reauthorization proposal). They are at odds on issues such as School Improvement Grants, Race to the Top, and generally the use of competitive grants versus formula aid. Moreover, Senator Alexander’s proposed amendments on teacher evaluation and pay based on performance are at odds with Kline’s proposal (i.e., Is teacher evaluation a Federal or state role?). On the Obama/Duncan side, the push for ESEA reauthorization may be more for “show than real.” In Rick Hess’, Straight Up blog concerning
his “takeaways” from the November 8, 2012 American Enterprise Institute election wrap-up forum, which he moderated, Alyson Klein said she felt that “the Obama Administration doesn’t want to see NCLB reauthorization move forward because they’re happy with where things stand (after the waivers) and worry about which kind of bill might take shape.” Even though Senator Harkin has apparently agreed to incorporate many of the waiver provisions into the Senate version of ESEA reauthorization, many Republicans very likely would oppose this. What happens to states which have not applied for nor received waivers? As we have stated over the last year and half, the transition from waivers to a new ESEA would indeed be tricky and take an enormous amount of time.

In addition to the ESEA reauthorization, other programs such as the Workforce Investment Act, Higher Education, and IDEA are also up for renewal. Some observers such as Richard Long, Executive Director of the National Title I Association, among others, feel that the highest priority should be the Higher Education Act reauthorization.

If the likely impact of sequestration is minimal, then the FY 2013 appropriations will most likely reflect the following. Title I grants to states will be reduced somewhat with slightly more funds allocated to School Improvement Grants. We agree with Long that the Administration is placing a much higher priority on funneling Title I and other dollars to turning around low-performing schools. As a veteran Congressional Research Service official recently noted in the TitleInderland blog, when overall Title I funds have been reduced, it has come at the expense of districts receiving “basic” grants rather than “targeted, incentive, and concentration funds” which, for the most part, go to large, urban, high-poverty districts/schools which also have the largest portion of low-performing schools. If Title I grants to states decline or do not increase significantly, the amount of the 4% set-aside “for school improvement” will actually decrease (because of hold harmless provisions), thereby justifying the Administration’s request for a slight increase in SIG funding. On the other hand, the GOP is likely to want to do away with the “prescriptive” SIG program and increase the SEA 4% set-aside to seven or eight percent with possibly a certain percentage earmarked as a separate funding source for SES set-asides, which the House Education Committee supported last year. But without a significant increase in Title I Part A funding to states, over time this set-aside would also be reduced unless the Title I formula is changed.

As we stated in our November 14th Federal Funding Update, if the amount of Title I formula funds decreases for “regular Title I” operations then the Obama/Duncan Administration will be forced to allow districts to use remaining Title I funds in a more flexible manner which appears to be an acceptable alternative with groups such as AASA. As we have reported over the last year and a half, the primary funding source for intervention implementation in Priority and Focus Schools under the waiver initiative was to have been the freed-up Title I 20% SES set-aside and the 10% professional development set-aside under NCLB waivers. In such states as Florida, Colorado, South Carolina, and about ten other states, this has not occurred to the extent the Obama Administration anticipated even though Secretary Duncan has gone out of his way to encourage such reallocations (e.g., Florida). Texas, California, and Pennsylvania have not even formally applied for waivers yet.

Perhaps the safest Federal education program as far as funding is concerned, is IDEA special
education programs. Not only is special education a high GOP priority in the House, but is also one of the highest priorities of Chairman Tom Harkin who heads both the IDEA appropriations and authorizing committees. While IDEA reauthorization is by no means the highest Congressional priority over the next year, the Administration will most likely work closely with both Chairman Kline and Chairman Harkin to redirect flexible IDEA funds to generally agreed upon activities. These include infusing/promoting the use of Universal Design for Learning principles and providing students with disabilities access to quality curriculum with embedded UDL principles in both instruction and assessment and the likely increased use of waivers from state/district “maintenance of effort” requirements. One might anticipate increased use of Title I funds to support and expand Response-to-Intervention principles as intervention approaches beyond special education as we described in several previous TechMIS reports (see August 31, 2011 and 2012 Special Reports). To the extent any Federal money is allocated to Common Core assessment, development, and implementation, it will likely be money reallocated from other programs to new alternative assessments/accommodations and providing access for students with disabilities and, to a lesser extent, ELL students.

Future funding for Obama flagship programs is less certain, and is related to waivers and Common Core implementation. One such program is Race to the Top which many observers feel lost some ground as a result of the recent elections, such as Indiana Superintendent Tony Bennett’s defeat and the election of new governors, legislators and Congressmen who feel Race to the Top, in its initial phase, “bribed” states to participate, resulting in increased Federal intrusion into the state responsibilities (e.g., forcing some states to adopt Common Core Standards). Other observers, like Sara Mead, feel that the policy impact of Race to the Top in those states receiving Phase 1 and 2 funding occurred prior to their receiving funds as they passed state laws, regulations, etc. in order to be eligible to apply. She argues in her influential blog, that RTTT’s Early Learning Challenge and Race to the Top-District were not directed toward fostering statewide policy changes. Rather, “In spreading the RTT mantle over initiatives and competitions that have very little in common with the original Race to the Top, the administration risks watering down and ultimately undermining the original success of its signature brand.” The expansion of the Race to the Top reward/incentive approach to policy will also be determined by the implementation progress being made in the original 12 states which have a challenging immediate “to-do list” as Michele McNeil has noted (see September 30 TechMIS Washington Update).

Future funding levels of other Administration programs will be highly dependent on a number of factors including:

- Promise Neighborhood, which enjoys moderate bipartisan support, will continue to grow as long as progress can be demonstrated and it remains aligned with other larger programs such as School Improvement Grants and waiver interventions for Priority and Focus Schools.
- Teacher Incentive Fund should continue as long as the competitive grants reflect bipartisan priorities ranging from initial GOP support for incentive performance pay for teachers and Obama priorities such as STEM and related activities.
- Investing in Innovation (i³) should also continue to the extent there is evidence of progress being made under different types of grantees (validation, development, and
scale-up), especially scale-up projects which should be able to show positive results more quickly than developmental or even validation grants.

During AEI’s post-election Forum, the role of for-profit and non-profit entities in education was addressed, specifically in the i^3 program. Deputy Assistant Secretary for the Office of Innovation and Improvement at USED, James Sheldon, argued that the reason why for-profit organizations cannot participate directly in the i^3 program, only as “other partners” or as subcontractors, is that the Law specifically prohibited such participation. He said this preclusion was a reflection of bipartisan opposition in Congress to the role of profit makers in education. Another spokesperson from the Bill & Melinda Gates Foundation seemed to be saying that in order to “play in the education space,” for-profit firms should bring to the table evidence that indicates their products/services increase learning performance using objective “metrics.” On the other hand, the Gates spokesperson implied that the role for philanthropic organizations, such as the Gates Foundation, is to direct support and initial capital only for non-profit organizations in order that they have a “level field” to compete with the for-profit sector. One can reasonably argue that in light of the this Administration’s penchant to support not-for-profit organizations through competitive USED contracts and grants, that the “playing field” has been more than leveled over the last three years in many education areas.