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MEMORANDUM

DATE: August 27, 2015
TO: TechMIS Subscribers
FROM: Charles Blaschke and Dr. Suzanne Thouvenelle
SUBJ: Professional Development Research Findings and Allowable Uses of ESEA Funds in Reauthorization Proposal; FCC “Homework Gap” Initiative; Common Core Material Use; Student Privacy Proposed bill; Special Education Evaluations and RTI Expansion

The August 4th TechMIS Special Report highlighted changed provisions and amendments of high interest to many TechMIS subscribers passed during the floor debates on the Senate ESEA reauthorization bill. Thus far, the official printed version of the Senate bill or report are not available, nor has the Conference Committee been appointed or any related public action occurred. However, committee staff are attempting to resolve differences between the House and Senate versions, some of which have significant implications for subscribers. When the House and Senate return after the August recess, other Congressional “business” will likely take a priority, including appropriations bills (which could result in Continuing Resolutions or possibly a government shutdown), and the Iran “Treaty” vote, among others. It is not clear when the Conference Committee on ESEA reauthorization will meet and action will begin, which we will closely follow and report in periodic TechMIS ESEA reauthorization alerts.

The attached Special Report highlights recent research findings that attempt to link different types of professional development to teacher improvement measures; and such findings question the justification of the Senate reauthorization bill, which specifies the types of professional development that Federal funds can or cannot be used to purchase or support. This is especially relevant if one takes into account “evidence-based research requirements” also in the bill. If the Senate bill’s specificity of what is and is not allowable use of Federal funds becomes more flexible, then opportunities for technology-based training and support should expand.

The Washington Updates cover a range of topics, some of which will be of high interest to certain TechMIS subscribers:

- **Page 1**

New Research Survey Report Argues that Black Students Are Underrepresented Rather than Overrepresented in Special Education Programs Because They Are Under Diagnosed Across Disability Areas and Are not Placed in Special Education, Even Though They May Have Disabilities, Because Schools Do Not Want to Appear to Be Racially Biased

USED new policy directives to districts call for more rigorous evaluations of at-risk students which could increase the use of response-to-intervention approaches.

- **Page 2**

Shortly After the FCC Announced its New Priority to Address the “Homework Gap” During the Recent ISTE Conference (see July 14th TechMIS Special Report), the President Announced “Connect Home,” Which is Designed to Marshal Resources from a Variety of Entities to Provide Low-Income Students Living in Public Housing Access to High-Speed Internet Connections

- **Page 3**

New Initiative Announced to Take Advantage of Proposed FCC Policy to Subsidize Broadband Services for Low-Income Hispanic Households to Close the So-Called Homework Gap

- **Page 4**

Two Education Commission of the States (ECS) Surveys Paint a Picture of Increasing State Policies and Activities for Homeschooling and Extended Learning Time (ELT) for Instructing Students, Which Could Provide Opportunities for Some TechMIS Subscribers

- **Page 5**

USED Continues to Approve NCLB State Waiver Renewals

It remains unclear as to how many of the individual state waiver renewal provisions will remain, if and when ESEA reauthorization occurs, and what if any state laws passed to receive waiver approvals will have to be changed in order to have Federal funding pay for certain activities without violating “supplement not supplant” provisions.

- **Page 7**

Education Week (July 7th) Reports that States Which Have not Adopted Common Core Standards (Alaska, Nebraska, Texas, and Virginia), and/or States Which Have Repealed the Adoption of CCSS (Indiana and Oklahoma) are Increasing Their Use of Common Core-Aligned Materials

- **Page 7**
The Recently-Introduced Student Privacy Protection Act (HR 3157) Would Update the Family Education Rights and Privacy Act (FERPA) to Modernize Privacy Protection Provisions and Hold Districts, Private Firms, Publishers, and Others Accountable for the Use of Student Information, Including a Ban on Direct Advertising to Students
- **Page 9**
A number of miscellaneous items are also addressed including:
 - a) Congressman Tim Walberg, a Michigan Republican, has introduced a bill which would allow districts to increase efficiencies that reduce costs without violating IDEA’s special education maintenance of effort (MOE) requirements while maintaining quality of services provided to special education programs. If the amendment is passed, opportunities for firms with technology solutions which will reduce cost of special education programs while maintaining the quality of services could increase.
 - b) A study published by the National Bureau of Economic Research has found that teachers who enter K-12 teaching during an economic downturn are more effective in increasing student test scores in math.
 - c) As reported on *Fritzwire*, the “Goal of the Senate HELP Committee is to have a Higher Education Bill by this fall.” High on the agenda will be student remediation/support to increase completion rates.
 - d) In a July 6, 2015 letter, USED/OSERS reminds districts to use multiple therapies, including speech and language services, for treatment of autism rather than relying exclusively on Applied Behavioral Analysis (ABA).
 - e) USED has awarded nine states \$9.2 million in IDEA Personnel Development Grants to train teachers in coaching and mentoring, comprehensive online professional development, and ways to increase reading achievement for students with “specific learning disabilities” (e.g., RTI approaches).

Please call Charles if you have any questions (703-362-4689).

Special Report:
**New Report Corroborates Other Recent Findings that
Different Types of Professional Development Are Not
“Linked” to Teacher Improvement Measures,
While the Senate Bill Reauthorizing ESEA Specifies
What Types of Professional Development Federal Funds
Can and Cannot Be Used to Support or Purchase
Taking Into Account “Evidence-Based” Research Findings**

*A Technology Monitoring and Information Service (TechMIS)
Special Report*

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August 27, 2015

Findings from a recent study from TNTP (i.e., the Former New Teacher Project), an influential teacher-training group, corroborates earlier study findings reported by Education Week in 2010 that “most professional development activities lack strong research evidence,” as reported by Stephen Sawchuk, blogger Education Week’s Teacher Beat blog (August 4th). Sawchuk reports that those earlier studies found that sustained, school-based coaching and follow-up hands-on use of new approaches “didn’t always have an effect on student achievement.” The new study’s major finding is that “PD doesn’t seem to explain why some teachers get better at their jobs, and others don’t.” As many scholars conclude, “Without better information about what teacher-development activities work under what conditions, it will be hard to force improvements in a PD marketplace estimated to be worth some \$18 billion.”

As we reported in our April 29th TechMIS Special Report on the Senate ESEA Reauthorization Bill passed by the HELP Committee, the General Provisions have defined “professional development” rather broadly, but then specifies types of professional development districts can use to purchase with Federal funds and which types are not allowable uses of Federal funds. A major component of the Senate bill is an amendment creating the so-called I-TECH program (similar to the E²T² technology. program which has not received any funding from Congress for five years), which would provide \$200-300 million technology-related funding, of which at least 50 percent must be used for technology-related professional development. However, the I-TECH amendment does not “define” professional development and what types can be funded under the I-TECH program which means the General Provision’s definitions and the “allowable”

and “non-allowable” uses of ESEA funds for types of professional development would apply.

The new TNTP study involved three large districts and one charter school network enrolling 400,000 students and 20,000 teachers. Over 10,000 teachers were surveyed on the types of professional development which they had been provided; response rates ranged from 25-50 percent. Teacher improvement measures included observations, improvement estimates of student test scores, and other measures while controlling for teacher experience. However, as Sawchuk reported, “sampling bias” could not be ruled out.

In addition to the analysis, which attempted to link types of professional development provided to teacher improvement measures, the study also estimated the average cost was \$18,000 annually per teacher spent on coaching, workshops and substitutes (to cover classes when teachers were in training) and other forms of support, while the cost per-teacher in the charter schools was estimated to be \$33,000 per-teacher. TNTP also estimated the total district cost as a percentage of their budget for 2014. Under a conservative estimate which included time, money, supplies, and programming, the average cost represented five percent of the district’s budget. By adding evaluations, support, cost of teacher salaries linked to degrees, and performance pay and leadership development training, the total cost was about 11 percent of the average district’s budget. Education Resource Strategies, a group headed by veteran Karen Hawley Miles, reported that their studies of district spending patterns found “PD spending ranged between five and 15 percent of districts’ budgets.”

The Washington Post reported on August 5th on the study findings that TNTP estimates that the 50 largest school districts spent an estimated \$8 billion on teacher development annually, which is “far larger than previous estimates,” and that teachers spend an average of 19 school days a year on professional development. The Washington Post article also refers to previous studies that found that teacher training had no significant effect on performance and quoted Secretary Duncan who stated at a Teachers Town Hall meeting in 2012 that USED spends \$2.5 billion on professional development, and, “When I asked them [great teachers] how much is that money improving their job or development, they either laughed or they cry. They are not feeling it.” The most recent TNTP study certainly reinforces Secretary Duncan’s perception that Title II Teacher Quality Professional Development and other Federal programs supporting professional development need to be overhauled; some of his solutions are reflected in the Senate ESEA Reauthorization bill, as noted below.

As we reported in our April 29th TechMIS Special Report, the Senate bill’s general provisions reemphasized that activities supported by Title II Teacher Quality have to meet the “principles of effectiveness” criteria, which include increasing the number of staff effective in improving student results, and meet evidence-based criteria, among other requirements. Moreover, the definition of “evidence-based” is generally more rigorous, particularly for justifying the use of products and services paid for by Title I funds. However, some of the types of professional development which ESEA funds can be used to purchase or otherwise support outlined in the Senate bill, which was very likely developed in consultation with the White House, do not appear to meet the “evidence-based criterion” in light of the studies cited above. As Education

Week's Teacher Beat blog noted, sustained school based, job-embedded professional development, and follow-up hands-on use of new approaches did not always improve student achievement, according to earlier USED studies. In the December 22, 2014, *Teacher Beat* research review, Sawchuk also noted that while such practices are theoretically grounded in the best research on teacher PD, implementation factors could have contributed to the lack of consistent results: "The missing link is how these activities are structured and carried out at schools." In any event, some of the allowed PD activities in the Senate bill include(see April 29th TechMIS Special Report):

- are high-quality, sustained, intensive, collaborative, job-embedded, data-driven, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classrooms; and
- advanced teacher understanding of effective instructional strategies that are evidence-based.

The provision also states that such types of training "are not one-day or short-term workshops or conferences."

And, as reported in the December 22, 2014 *Teacher Beat* blog, another study found teachers were generally unsatisfied with the quality of their in-school offerings and that about a quarter of the teachers reported they were not satisfied with the workshop PD format, while almost 50 percent felt that their involvement in collaborative "professional learning opportunities" were not helpful. Interestingly, almost three-quarters of school administrators felt that the use of "professional learning communities" should be increased, while slightly more felt learning observation and coaching formats should be increased.

In light of the conclusion in Education Week's comprehensive 2010 report on the state of professional development that most PD activities lack strong research evidence, one can question the wisdom of the Senate bills specifying PD activities, which are allowable and non-allowable.

Washington Update

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New Research Survey Report Argues that Black Students Are Underrepresented Rather than Overrepresented in Special Education Programs Because They Are Under Diagnosed Across Disability Areas and Are not Placed in Special Education, Even Though They May Have Disabilities, Because Schools Do Not Want to Appear to Be Racially Biased

The report “Minorities Are Disproportionally Underrepresented in Special Education: Longitudinal Evidence Across 5 Disability Categories” published online in Educational Researcher (AERA June 24th) was announced in The New York Times op-ed by the report’s lead authors Professor Paul Morgan and Professor George Farkas (Penn State University and University of California, Irvine, respectively). The report concluded, “Black children face double jeopardy when it comes to succeeding in school. They are far more likely to be exposed to gestational, environmental, and economic risk factors that often result in disabilities, yet black children are less likely to be told they have disabilities and to be treated for them than otherwise similar white children.” As we have reported over the last decade, expenditures have increased over the last decade from about a half billion dollars to more than \$4 billion for Coordinated Early Intervening Services/Response-to-Intervention approaches with minority “overrepresentation of minorities” in special education. More than 500 districts have been

required to set aside 15% of IDEA funds for CEIS/RTI, and many more districts have spent a variety of Federal and local funds on CEIS/RTI on a “voluntary” basis for, among other reasons, RTI appears to work in reducing the number of students disproportionately placed in special education programs (see April 29th TechMIS Washington Update). Because states have flexibility in determining which districts have “significant disproportionality” or “over-representation” of minority students in special education programs, USED is considering adopting “a single standard for all states of what is an allowable amount of over representation of minority children,” according to the New York Times op-ed piece. And, as we have reported, many of the same groups, including National Center for Education Outcomes (University of Minnesota) and National Center for Learning Disabilities are also pushing for a standard definition of “Response-to-Intervention,” which is only tangentially being addressed in the Senate ESEA Reauthorization Bill currently in Congress as it defines Multi-Tier Systems of Support (i.e., RTI) for ESEA not IDEA purposes. Michael Yudin, USED Assistant Secretary for Office of Special Education and Rehabilitative Services said the study is “an absolutely different way of looking at the data,” admitting he had not read the study at the time, but he felt there are still “too many places where minority students are over represented in special education,” as reported in *Politico Morning Education*.

The research finding is that black students

are too often underrepresented in special education programs because of inadequate diagnosis that does not take into account poverty level, premature birth, fetal alcohol syndrome, behavior, and other factors, which contribute to learning disabilities, could result in USED and state policy changes. This in turn could result in more dollars and efforts being devoted to diagnosis and evaluations before placing children in special education programs or implementing CEIS/RTI approaches.

It is interesting to note that on July 6th, USED sent a Dear Colleague letter which advised districts to conduct more in-depth diagnostic evaluations of students suspected to have “autism” to ensure the proper treatments are provided (i.e., for specific treatments for the identified disabilities) before designating the student as having “autism” (see related Washington Update). Even though IDEA Reauthorization is not expected to be imminent, a similar Dear Colleague letter might be expected soon reminding districts of IDEA individual evaluation and placement requirements affecting minority overrepresentation in special education programs.

We plan to continue monitoring developments in this general area, identifying opportunities for some TechMIS subscribers.

Shortly After the FCC Announced its New Priority to Address the “Homework Gap” During the Recent ISTE Conference (see July 14th TechMIS Special Report), the President Announced “Connect Home,” Which is Designed to Marshal Resources from a Variety of Entities to Provide Low-Income Students Living in Public Housing Access to High-Speed Internet Connections

According to a White House Fact Sheet (July 20th) in addition to high-speed Internet connectivity, technical training and digital literacy programs and resources will be provided. Twenty-seven cities/locations across the country and one tribal nation (the Choctaw Nation in Oklahoma) will be targeted initially involving more than 200,000 children in 275 low-income households. Participating in its first round are: Albany (Georgia), Atlanta, Baltimore, Baton Rouge, Boston, Camden, Choctaw Nation, Cleveland, Denver, Durham, Fresno, Kansas City, Little Rock, Los Angeles, Macon, Memphis, Meridian (Connecticut), Nashville, New Orleans, New York, Newark (NJ), Philadelphia, Rockford (Illinois), San Antonio, Seattle, Springfield (Massachusetts), Tampa, and Washington, DC.

The new initiative falls under the umbrella of Connect Ed announced almost two years ago by the President, in which about ten companies have agreed to donate millions of dollars of broadband access, technical training, digital literacy programs and devices for high-poverty schools and now for public housing unit residents to be used by students once they are home. According to the White House Fact Sheet, eight ISPs

are partnering with mayors, non-profits, and other groups in this effort, including Century Link, Cox Communications, Sprint, and Google, among others. Other participating firms are Best Buy, Age of Learning, and a large number of not-for-profits, including College Board, PBS, American Library Association, and Boys and Girls Club of America.

Education Week's *Digital Education* blog (July 20th) noted the Connect Home initiative will be largely dependent upon what private participating companies in their location agree to provide, and the FCC E-Rate Modernization initiative to provide students with better access to high-speed Internet access outside the school, which "have intensified in recent months." In addition, legislation has been proposed to fund pilot programs to test new approaches to support community-based broadband. The blog also notes that some districts have begun to get creative, adding Wi-Fi to school buses and sending home mobile "hotspots" with students (see July TechMIS Special Report on ISTE highlights).

For more information on specific groups working within each of the respective communities, some of which are newly-created "promise zones," which receive increased targeted funding from numerous agencies including HUD, see the White House Fact Sheet July 15th (<https://www.whitehouse.gov/the-press-office/2015/07/15/fact-sheet-connecthome-coming-together-ensure-digital-opportunity-all>).

New Initiative Announced to Take Advantage of Proposed FCC Policy to Subsidize Broadband Services for Low-Income Hispanic Households to Close the So-Called Homework Gap

The FCC proposed "Homework Gap" Initiative, announced during the recent ISTE conference by FCC Commissioner Jessica Rosenworcel veteran supporter of the E-Rate program (see June 18th TechMIS Washington Update), would expand the FCC "Lifeline" program which subsidizes phone service to also subsidize broadband services for low-income family households. According to Education Week (August 11th), a joint effort headed by Univision Communications, the "most-watched Spanish language television broadcast network in the United States, as well as a host of other TV channels, radio stations and websites" with Common Sense Media have initiated a campaign to bolster and take advantage of the FCC plan. It will encourage Hispanic households to get home broadband access, help them find hardware and services at best rates, and provide guidelines for responsible Internet usage. Univision President Randy Falco was quoted in the *Digital Education* blog as saying, "This campaign will help to ensure Hispanic students have the tools to succeed in school, on their way to becoming the workforce of tomorrow."

In addition to providing public service announcements, Univision will conduct outreach workshops and social media campaigns, among other outreach strategies. While the Pew Research Center reports that 72 percent of Hispanic households with school-age children have a high-speed connection at home, compared to 88 percent for Whites; however for Hispanic

households with annual incomes under \$25,000, only 55 percent had a high-speed connection.

As *Digital Education* notes, the FCC has published a notice for comments on its proposal to expand the Lifeline program to include subsidized broadband services. A bill has been introduced in the Senate which would “seek to identify and expand innovative broadband access programs that are popping up around the country.” The new Univision Initiative referred to as “Connected, We Advance!” will also “include tools to help parents use mobile devices to find discounted broadband and computer services in their areas, as well as safe Internet usage tips from Common Sense Media.” The broadband-awareness campaign should also bolster the FCC proposal to expand the Lifeline program and also influence support of the Senate-proposed new competitive Federal grant program to expand broadband access into the Hispanic community. As the *Digital Education* blog states, “The move offers another sign that the so-called ‘homework gap,’ between students who have affordable high-speed broadband at home and those who do not, is emerging as a significant ed-tech policy issue.”

Two Education Commission of the States (ECS) Surveys Paint a Picture of Increasing State Policies and Activities for Homeschooling and Extended Learning Time (ELT) for Instructing Students, Which Could Provide Opportunities for Some TechMIS Subscribers

The number of students being “homeschooled” has increased from one

million or 2.2 percent of all students in 2003 to nearly 1.8 million or 3.4 percent of students in 2012, according to Federal statistics. The ECS survey found while states vary significantly in providing homeschooling exemptions from state compulsory school attendance policies, some activities/trends appear to have emerged. Twenty states, including Washington D.C., require home instruction in certain subjects, and these typically include mathematics, English language arts, science and social studies, with only a few states requiring all subjects that are required for the states’ public schools. Generally, home instructors and parents must maintain student records or portfolios, which can be reviewed by the SEA or the LEA governing agency for the student. Twenty-three states require homeschoolers to follow normal district attendance requirements (e.g., about 180 days or 1,000 hours of instruction).

One important trend identified by the ECS survey is that increasing numbers of homeschooled students participate in online education provided by state online schools, virtual charter schools, or other distance learning options; and “as more students seek out opportunities through state-sponsored programs, students are pulled under the canopy of state standards and the lines between home schools and public schools are becoming fuzzier.” About 20 states mandate assessments for homeschoolers, with 12 requiring standardized tests and eight allowing alternative assessments chosen by the parent. As the report states, “Alternative assessment options generally include an evaluation or review of the students’ portfolio by a licensed teacher or administrator, or some other academic assessment decided on by the parent and a local or state official.” A small number of

states require an annual assessment reported to the state. Generally, assessments which are reported to the state represent an “assurance” that the student is taking a course of study and making appropriate progress. For students not making progress, intervention processes may be directed by the state and/or LEA, including having the parent teacher put on probation.

In a related development, ECS just released its Instructional Time Trends survey results. Several trends relate to homeschooling. One is that most states require between 900 and 1,080 hours of instruction per year for all grades. As the report notes, “...the length of the instructional day has remained the same since 1985...with a general trend toward mandating hours per year while giving districts the flexibility to determine how those hours are distributed.” As the report notes, instructional time is a perennial legislative topic and in 2015, 14 laws, which slightly modified instructional requirements were signed. While the ECS report cites the results of the Massachusetts Expanded Learning Time Initiative (ELT), which found improved student achievement was related to adding 300 hours of instructional time per year (which Secretary Duncan has promoted wherever possible in state waiver regulations), it also notes that research on the topic has focused primarily on the quantity of time rather than the quality of time spent during instruction. Given the millions of dollars cost in lengthening the school year for ELT instructional time, state legislatures “should carefully consider the value of changing learning time policy before moving forward,” according to ECS.

See www.ecs.org for the reports and databases on each relevant state and its policy, if any.

USED Continues to Approve NCLB State Waiver Renewals

USED has approved waiver renewal requests from seven more states, upping the total to 24 as of the end of July. The recently approved states and the number of years for which their renewals are in effect are: Tennessee (four years), Maryland (three years), Indiana (three years), Alaska (three years), New Jersey (three years), Oregon (three years), and Utah (one year). As Education Week's Politics K-12 blog (July 23rd) reports, some states with laws to which USED objects have been approved (e.g., Oregon, which has an opt-out testing law; Iowa which, repealed the CCSS; and Alaska, which USED approved state standards because they were “substantially similar” to CCSS). In addition, according to *Politics K-12*, three of the newly-approved waiver renewal states also got permission to postpone test results (the so-called “accountability pause”) because they want to use the most recent test results rather than the new test results for state accountability reporting purposes. The total number of states with waiver renewal to receive the “accountability pause” is now 12 plus D.C., according to *Politics K-12* estimates.

The article also identifies certain conditions for each state waiver renewal approval, including New Jersey, which must show how it is supporting low-performing schools; and Indiana and Oregon, which must explain how growth factors will be integrated into grade-level accountability reporting. In addition to the seven new states and D.C., other states with at least one-year waiver renewals include: Delaware, Georgia, Hawaii, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, New Mexico, Nevada, New York,

North Carolina, Oklahoma, Puerto Rico, Rhode Island, South Carolina, Virginia, and West Virginia.

Update August 6th:

USED approved waiver renewals for seven additional states on August 5, including Alabama, Arizona, Arkansas, Connecticut, Mississippi, New Hampshire, and Wisconsin. As reported by Education Week's Politics K-12 blog (August 6th), three-year renewals were approved for Alabama, Connecticut, and Mississippi. Both Mississippi and Wisconsin are looking for replacements for the PARCC and Smarter Balanced assessments, respectively. One-year waiver renewals were provided for Arizona, Arkansas, and New Hampshire, which is switching its state assessment to College Board SAT, replacing Smarter Balanced. Connecticut is also planning to use the SAT (11th grade), and Arkansas is also planning to use the SAT, replacing PARCC, which it recently dropped.

In many of the newly-approved states, issues regarding how to treat assessments for ELLs continues to be a problem area, as it is with the ESEA reauthorization bill being debated in Congress. Only Florida and now Connecticut have received some relief in extending the number of years from one to two that students have to be in the country before test results count for accountability purposes. The total number of states now having received waiver renewals is 31.

Update August 13th:

The approval by USED of NCLB waiver renewals on August 12th for three years each for Maine and Michigan has increased the total to 33 states.

In approving the three-year extension for

Maine, USED Secretary Duncan pointed to the Transformational Leaders Network, which Maine will be expanding for principals who will be provided coaching and mentoring to develop skills and strategies for school improvement. According to Education Week's Politics K-12 blog, "Face-to-face coaching and mentoring by school improvement coaches will be provided for all staff." The Cross Disciplinary Literacy Network Program will also provide professional development supporting literacy in different content areas. Another initiative will be undertaken to implement models for teacher evaluation systems.

One of the priorities of the Michigan three-year renewal effort will be to support teacher teams serving Priority schools in the use of common assessments, and use of assessment data for diagnosis purposes to improve student achievement. The state will provide school improvement facilitators to implement the new activities.

Currently, nine states have yet to receive NCLB waiver renewals. Education Week maintains an up-to-date map of states, which have received their respective 1-3 year waiver approvals. See <http://www.edweek.org/ew/section/infographics/nclbwaivers.html>.

We are currently working with several individuals who also track waivers to determine what laws will affect the transition from state-approved waivers back to compliance: either with NCLB; or with the new ESEA should it be passed; or under new "waiver authority" for a different Administration in 2017. As we have reported over the last three years, the transition could be very difficult and have

unintended consequences. For example, in some states which passed state laws in order to receive waiver approval and/or new “money.” Without rescinding such laws, these states might not be able to use Federal funds (e.g., Title I) to pay for certain activities because of violation of “supplement-not-supplant” provisions “required by state law” (see August 2012 TechMIS report). Either the states will have to rescind such laws (e.g., use test scores for teacher evaluations) or state funds will have to be used to implement the state law.

Education Week (July 7th) Reports that Common Core Materials Used in States Which Have not Adopted Common Core Standards (Alaska, Nebraska, Texas, and Virginia), and/or States Which Have Repealed the Adoption of CCSS (Indiana and Oklahoma) are Increasing Their Use of Common Core-Aligned Materials

The information is based on recent interviews with some curriculum providers and data reported by non-profit groups which have websites from which potential users can access either online resources or curriculum lesson resources. According to the article, Student Achievement Partners, which was formed by some of the “writers” of the Common Core standards, reports that about two to three percent of traffic on its website comes from states that have not adopted the standards. Better Lessons, which provides Common Core materials, reports about eight percent of its traffic is from non-adopting Common Core standards states, with about five percent from Texas alone. Curriculum provider Great Minds which publishes Eureka Math curriculum, which was recently rated highly as being

aligned with Common Core standards, has now loaded its free materials to districts and schools in all of the four non-adopting states.

As we predicted as early as three years ago, USED would increase its “approval” of state standards in lieu of Common Core as long as the state standards were “substantially similar” to Common Core standards, with Alaska as the first. As the Education Week article notes, in many of the districts in the non-adoption states, districts are increasingly using materials, which have been designed for Common Core standards and appear to be highly aligned and correlated with their own specific state standards. Overall, the Common Core state standards movement has resulted in adoption of some of the principles underlining Common Core, such as, deeper learning and developing critical thinking skills.

The Recently-Introduced Student Privacy Protection Act (HR 3157) Would Update the Family Education Rights and Privacy Act (FERPA) to Modernize Privacy Protection Provisions and Hold Districts, Private Firms, Publishers, and Others Accountable for the Use of Student Information, Including a Ban on Direct Advertising to Students

A statement from the Workforce and Education Committee, Subcommittee Chairman Todd Rokita (R-IN), a sponsor with Congresswoman Marcia Fudge (D-OH) acknowledged privacy rules have not kept up with technology changes in classrooms, and the bill would ensure accurate privacy protection by schools providing 21st century

education. Co-sponsor Fudge stated that the Act “clarifies the definition of student records and how they are kept, increases parental access and consent, strengthens accountability and transparency, and protects student records from dangerous data breaches and theft.” Ranking member Bobby Scott (D-VA) also added that the Act “seeks to hold bad actors accountable for misuse and breach of data.”

Key provisions reiterated in the Committee statement include:

- “prohibits schools or independent entities, such as technology companies, from using a student’s education record to market products or services to that student;
- provides parents with greater transparency about what student information schools determine can be used, collected and shared for education purposes.”

As Education Week’s *Digital Education* blog (July 22nd) noted, violators of key provisions are the subject to fines ranging from \$100 per student to \$1.5 million per institution. Violations would be referred to the FCC. Burdens placed upon LEAs and schools could increase dramatically in many cases under the new operations, including:

- establishment of new security practices for protecting student information;
- requiring third parties with access to student records also maintain security practices;
- establish breach notifications policies and procedures;
- designate an official “responsible for maintaining the security of its education records.”

Of interest to many TechMIS subscribers are responsibilities, penalties, and other measures to ensure accountability on the part of private providers, publishers, and other firms. For example, contractors would have to add a “policy or practice for using, releasing, or otherwise providing access to personally identifying information in an education record for a student for advertising purposes, or further development of unapproved commercial products and services.” Providers could not use information to “market or otherwise advertise directly to students,” as noted in the article. As *Digital Education* noted, the Software Industry Association “reacted cautiously.”

During a recent policy committee telephone conference, SIIA commented on several areas of concern to the education technology industry that were in the initial draft that subsequently changed as a result of SIIA efforts. These included, for example, if an improper vendor action were identified by USED, the case would be referred to the FCC for investigation and penalties, and if criminal activities were found to the Department of Justice. Also, vendors would be responsible for meeting reasonable industry standards for security, and not those of customers with some exceptions in that vendors had to merely “assure that appropriate security” was used on their part without having to disclose the specific security that was used. In addition, an earlier version which would have allowed parents to “opt out” of the use of children’s’ data for research studies would be eliminated.

It would appear that most of the other directly-related student privacy and protection bills floating around Congress

will be put on hold, as progress is made on the update of the FERPA, which was enacted 41 years ago.

Miscellaneous (a)

Congressman Tim Walberg, a Michigan Republican, has introduced a bill which would allow districts to increase efficiencies that reduce costs without violating IDEA's special education maintenance of effort (MOE) requirements while maintaining quality of services provided to special education programs. The IDEA MOE requirements became a major issue during the Great Recession, as local districts were required to maintain the level of district and state funding in its special education programs when overall state and local funds for the districts were being reduced greatly. Currently, the controversial MOE requirements provide for limited exceptions (e.g., highly-paid teachers retire and replaced by lower-paid special education teachers). As reported by Education Week's On Special Education blog (July 8th), in the Congressman's own district, local officials justified their request for the amendment to the Congressman as teachers' salaries were modified across the board and reportedly safeguards were built in to monitor districts to ensure program quality was not reduced. Flexibilities would allow the districts to lower the amount of funding allocated to special education programs without violating maintenance of effort.

As Education Week notes, "Walberg's bill would allow districts to cut back on special education funding if they found other ways to reduce costs or keep services intact. If a district negotiates a contract with its teachers that reduces personnel costs, for example,

the bill states that the district should be able to adjust special education spending to account for that." The bill is supported by other groups -- the American Association of School Administrators whose assistant Director for Policy and Advocacy Sasha Pudelski has reportedly having said, "Districts are being told to do more with less all the time, but they can't realize savings because of the way the law is written." Chairman of the House Education Committee John Kline (R-MN) is very close to AASA and supports not only increased IDEA funding, but also many of the recommendations made by AASA and other special education administrative groups (e.g., the Council of Administrators of Special Education).

It's interesting to note that in the early 1970s, Grand Rapids Public Schools implemented a "cost saving productivity plan," which was supported by the local Michigan Education Association Teacher Group. Under the plan, individual teachers would introduce cost saving initiatives in each school in its Title I program, and if student performance levels were maintained, half of the savings would be allocated to participating teachers as group bonuses with the remaining being included in the following year's budget as a district savings. That initiative would have most likely violated IDEA "MOE" provisions and possibly Title I MOEs at that time. The Michigan initiative was based in part upon the United Automobile Workers (UAW) so-called Scanlon Plan to improve productivity and in the early 1970s Albert Shanker, President of the UFT and later American Federation of Teachers, strongly supported the Michigan plan.

If the flexibilities in the proposed legislation

were to be implemented as an amendment to IDEA, it is likely that the demand for technology-based solution which could reduce the cost of special education programs while helping teachers maintain their quality (e.g., current graduation or achievement levels of students) would be in high demand. The specific activities undertaken by teacher groups in Grand Rapids at that time included the use of technology-based tutoring programs. The Grand Rapids' cost-saving productivity plan continued until a change in district leadership occurred; however, the concept was integrated into the creation in the mid-1970s by the Michigan State Department of Education of the so-called Chapter 3 Compensatory Education Program, which provided incentives to districts whose students demonstrated increases in achievement in Title I-type programs.

Miscellaneous (b)

A study published by the National Bureau of Economic Research has found that teachers who enter K-12 teaching during an economic downturn are more effective in increasing student test scores in math, based on an analysis by 33,000 fourth and fifth-grade Florida public school teachers between 2000 and 2009. The NBER report argues that it is partly because more highly-skilled people enter teaching when the economy is bad and fewer stable jobs are available. Moreover, when the economy picks up and improves, the report argues that such teachers are more likely to leave the profession later. One implication is that "increasing economic benefits of becoming a teacher may be an effective strategy to increase the quality of teaching and the teaching workforce; second, they suggest

that recessions may prove a window of opportunity for governments to hire more able applicants."

Miscellaneous (c)

As reported on *Fritzwire*, the "Goal of the Senate HELP Committee is to have a Higher Education Bill by this fall." Chairman Lamar Alexander wants to address two major questions in the Higher Education Act reauthorization which are: "Why are American college students leaving before they graduate? and what role can the Federal government play in encouraging students to finish and encouraging colleges to help them along?" From a student's perspective, according to Alexander, "Few can afford to be stuck with debt and no degree..."

While a number of reasons/answers to his questions have been reported in numerous studies, which we have cited in TechMIS reports over the last ten years, technology has a potential role to play in addressing some of the problems. One major role for various types of technology uses relates to providing effective remedial education and providing other support for entering freshmen in two- and four-year postsecondary institution programs. Technology can also provide "on-demand" instruction and support at the convenience of students who are working or otherwise cannot "attend courses" on a full-time basis; subscription courses "as needed" can also reduce the "costs" of college education. In order for students to realize the education benefits, and for colleges to realize potential cost savings, significant college reforms within postsecondary institutions will be required. As ranking Democratic member of the House committee Senator Patty

Murray stated, “For first generation college students and for students of low-income backgrounds and for students who are struggling in college, we need to incentivize institutions of higher education to have support systems in place.” However, if the Higher Education Act reauthorization includes provisions that mandate solutions to questions raised by Chairman Alexander, the potential demand for remediation support services and online “on demand” assistance can expand this general niche market significantly. This would have potential for many TechMIS subscribers.

Miscellaneous (d)

In a July 6, 2015 letter, USED/OSERS reminds districts to use multiple therapies, including speech and language services, for treatment of autism rather than relying exclusively on Applied Behavioral Analysis (ABA). The Dear Colleague letter specifically includes consideration of speech/language therapies at the request of the American Speech Language Hearing Association (ASHA). According to Education Week’s On Special Education blog (July 29th), ASHA’s Director Neil Snyder said, “ABA has grown so well known as a treatment for autism that members of his organization have been told that schools will only offer ABA or that insurance will pay only for ABA for children with autism.” In a similar announcement, the Centers for Medicare and Medicaid services has clarified that Medicaid can be used to pay for speech and language therapy, among other treatments for treating Autism Spectrum Disorder (ASD).

The USED letter emphasizes that Parts B

and C of IDEA call for evaluations to identify child’s level of functioning in a number of areas including cognitive development, communications development, social and emotional development, among others, and that “experts” in the relevant areas participate in order to interpret the implications of evaluation results and advise in the development of IEPs. The letter concludes, “We recognize that the ABA therapy is just one methodology used to address the needs of children with ASD and reminds states and local programs to ensure that decisions regarding services are made based upon unique needs of each individual child with a disability (and the child’s family in the case of Part C of IDEA).”

The prevalence rate of students designated as “autistic” has increased from 1 to 68 in 2010, up from 1 to 150 in 2000. As Education Week notes, recent studies have found that “new” cases of autism have increased because of the reclassification of students, who were previously categorized as “intellectually disabled” (e.g., intellectual disability rates trended down, while autism rates increased).

While the request for the Dear Colleague letter came from the ASHA organization, Education Week also notes that the Autistic Self-Advocacy Network (ASAN), among other groups, applauded the USED advisory July 6th letter.

As ASAN’s statement read, “For too long, ABA has been inappropriately presented as the gold standard option for families seeking services for autistic relatives. Despite this, research suggests that the evidence-base for ABA is relatively weak. Furthermore, ongoing concerns from self-advocates and from families regarding unethical practices

by ABA providers have yet to be adequately addressed by the field.” The ASAN also applauded the July 6th letter push for “a broader way of service options including promising and evidence-based developmental approaches.”

To the extent districts implement the intent of the USED “Dear Colleague” letter, the evaluations of students with “suspected” autism considers functional levels and a wider range of therapies ranging from cognitive to social and emotional to communications development areas, the types of interventions used by districts should increase, thus creating a demand for general RTI approaches.

Miscellaneous (e)

USED has awarded nine states \$9.2 million in IDEA Personnel Development Grants to train teachers in coaching and mentoring, comprehensive online professional development, and ways to increase reading achievement for students with “specific learning disabilities” (e.g., RTI approaches). The SEAs must collaborate with at least one LEA, one higher education institution, and either a Parent Training and Information Center or a Community Parent Resource Center. States receiving grants are: Arizona, Arkansas, Illinois, Indiana, Iowa, Minnesota, Montana, Nevada, and Tennessee.

USED also announced that 40 Parent Training and Information Centers will receive multi-year grants totaling \$14 million annually. The Centers will provide parents assistance in several areas related to general response-to-intervention (RTI) approaches, including research-based

practices, how to interpret data to guide instruction and interpret evaluation results, and how to effectively engage in school reform activities.

While such grants do not likely represent funds for centers to purchase professional development and other services from external for-profit organizations, there do exist opportunities for firms with very specialized types of training services, knowledge, and skills to collaborate with SEA centers, which in turn can facilitate subsequent professional development opportunities for firms to work with specific LEAs. More information about the grants is available at Sig network, the State Personnel Development Network at www.ed.gov. The grantees are posted at www.ed.gov and are also funded by the Office of Special Education and Rehabilitation Services at USED.