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## MEMORANDUM

O April 30, 2002  
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TechMIS Subscribers

**FROM:** Charles Blaschke

**SUBJECT:** Special Report on Title I and Washington Update Including  
Likely Title I Purchasing Cycles Over the Next Ten Months

Enclosed is a Special Report on developments related to Title I implementation which were addressed, formally and informally, during the National Association of Federal Education Program Administrators (NAFEPA) Conference, by USED officials and key Congressional staff involved in drafting the new ESEA reauthorization. Informal guidance in the form of letters posted on the NCLB website at USED will be addressing the “paraprofessional qualifications problem,” after which time districts can begin identifying schools to receive Title I funding for the first time and building budgets. TechMIS subscribers with products and services appropriate for Title I programs should, in the immediate future, be attempting to get SEA approval of their products which are appropriate for “supplemental services.” Please call me if you wish specific suggestions for approaching specific states.

The Washington Update includes:

- An update on likely Title I purchasing cycles for different types of districts between now and November/December, as the timing will vary among the different types of Title I districts; with our assistance Mailings Clearinghouse has identified over 6,000 schools that will have been “targeted for improvement” by September; these schools will be

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required to allocate a minimum of ten percent of their Title I budget for staff development and/or will be required to offer parents alternative supplemental services on the approved state list;

- The posting of state applications for Reading First funds by states on state websites should provide clues as to what districts and schools will be eligible to apply for Reading First grants and the SEA-recommended reading approaches for districts and schools to use;
- New policy papers which suggest the nature of changes likely to occur in the reauthorization of IDEA over the next two years;
- Two USED new initiatives which will identify and disseminate a list of programs and approaches which meet the criteria of being based upon “scientifically-based research” which should be of great concern to firms selling cutting-edge technology-based products and services;
- As of April 8, 18 states have had their 1994 mandated state assessment and accountability systems fully approved by USED, with the remaining states having “conditionally-approved” waivers in order to meet specific timelines between now and the next three years for final approval;
- State legislatures are beginning to pick up the funding slack in school-to-work programs as sunset has fallen on the national School to Work Act even though over \$300 million in five-year School to Work grants were made to states prior to sunset; certain concepts under school-to-work continue to be implemented under different names among the states;
- Education groups’ comments support several major proposed FCC policy changes for e-Rate including support for allowing applicants to determine whether or not the BEAR process will be used; this will result in even more e-Rate-generated refunds which could be used to purchase software in the future.

During May, many important decisions will be made at the state level regarding implementation of ESEA and state budgets for next school year. These will be reported in our next TechMIS issue. As always, if you have any questions please call me directly.

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## **Title I Purchasing Cycle Update**

As noted in the February TechMIS Special Report listing districts with large increases in Title I funding for this coming year, we anticipate that different categories of districts and schools will be selecting and purchasing products and services at different times over the next eight to ten months.

One group of school districts, those with schools receiving Title I funds for the first time, have already begun selecting products and services for implementation in August-September. These are the districts that received Title I concentration funds for the first time this year out of the FY 2001 budget, but only received these concentration funds (about 90 percent of their total) in October-November 2001, which was too late to begin new Title I school programs mid-year. This is also true for districts that have previously received concentration funds but, because of hold-harmless provisions, received large increases only in October-November, 2001. Some of these districts allocated a portion of their FY 2001 concentration funding increase to existing Title I schools thereby increasing the per-pupil allocation. However, discussions with numerous Title I directors attending the NAFEPA conference in mid-April indicate that many of these Title I directors have withheld allocation of these funds until now in order to support schools receiving Title I funds for the first time. Virtually all of these districts will spend FY 2001 funds before September 30 because these districts are the same districts, in most cases, that are receiving even more increases under "targeted assistance" grants for this coming school year. The bottom line is that districts which received large increases, some for the first time, in concentration funds this school year offer the best prospects now through September-October.

Another group of districts (many of which were included in the February TechMIS Special Report of 200-300 districts receiving at least a \$1 million increase in total Title I funding for the coming school year) will have the vast majority of first-time Title I schools (estimated to be 5,000-6,000) as well as the vast majority of the 6,000+ schools that have been “targeted for improvement” for two or three consecutive years. Those schools which have been targeted for improvement for three consecutive years will be required in September to offer parent choice options and new supplemental services provided by a third party, operated by a district as a new program (e.g., perhaps, after-school programs), or operated in conjunction with affiliated community-based organizations.

At our request, Mailings Clearinghouse has interviewed virtually all states and many large urban districts and has identified over 6,000 schools which have been targeted for improvement for two or more years. Beginning in May, targeted schools which will be required to provide parent options and state-approved supplemental services, will begin the selection process. A relatively large portion of the 30 percent Title I Federal allocation in July will be allocated first to these targeted schools to meet the new supplemental services requirement. As noted in the attached NAFEPA Special Report, many of these districts are attempting to set up district-affiliated after-school and related programs that could be approved by the state as meeting the supplemental services requirement and thereby reducing the amount of Title I funds “following the child” to third-party vendors. Enclosed is the list of the number of targeted schools by state identified by the end of April.

TURNKEY has been working with Mailings Clearinghouse to merge lists of districts receiving large Title I increases this year (from the February list) with districts that, last year received not only Title I increases, but also received large e-Rate refunds and large increases in IDEA funds. This list now totals about 800 districts. Many of these districts have not made final decisions as to what Title I schools are to be served for the first time, but will be doing so once they resolve uncertainties related to paraprofessional and teacher qualifications

under the new provisions which could force a substantial amount of Title I funds into teacher salaries rather than purchases of products and services.

Also beginning in late May-June when the new Title I schools are identified and budgets are allocated, the selection process will occur with most actual purchasing probably held back until October-November when districts would receive the 70 percent allocation for next year's funding. This purchasing cycle will continue through early next year. Enclosed is an e-mail which describes the various list of districts and schools that have been compiled with our assistance by Mailings Clearinghouse. The contact is Mary English, 800/776-6373.

### **State Applications for Reading First Funds Should Provide Specific Information Regarding Districts Which are Eligible to Apply and the Types of Reading Programs Districts Will Be Encouraged to Purchase and Use**

On April 2, USED released the state application for Reading First funding. As indicated in the February TechMIS Special Report, the Reading First program will provide assistance to states and districts to establish research-based reading programs for students in K-3. The state application -- which is likely to be posted on each SEA's website after being sent to Washington -- could provide important clues as to what opportunities will exist for vendors of certain products and services. SEAs will award grants to LEAs on a competitive basis; each SEA is required to develop criteria that distinguish the quality of programs proposed by applicants and the SEA should fund only those proposals that show the most promise for raising student achievement and for successful implementation, particularly at the classroom level. Twenty percent of Reading First funds will be set aside at the state level of which up to 65 percent can be used to provide professional development to all reading teachers in low-performing or high-poverty schools and up to 25 percent may be used for technical assistance.

Some of the requirements that must be prescribed in the state application that could provide clues as to what opportunities could exist in the state, include the following:

- which LEAs will be eligible for Reading First grants;
- how the SEA selection process will evaluate and identify instructional strategies, programs, and materials that are based upon scientifically-based reading research;
- how the selection process will evaluate proposed programs and strategies to determine how students will be provided access to engaging reading materials, particularly print materials;
- what, if any, additional criteria beyond the Law and the guidelines will the SEA use in the selection process, including additional competitive priorities;
- how the state will provide teachers with professional development, on the essential components of reading instruction using scientifically-based instructional strategies and the use of screening, diagnostic, and classroom-based assessments; and
- a description of the SEA's vision for what a Reading First classroom will look like in terms of specific characteristics.

Under the guise of "prescriptive flexibility," the Reading First draft guidelines which were published on March 1, provide additional information on the types of programs and approaches that USED will allow under Reading First, including:

- the program or approach must be designed to be used in a regular classroom and not for pullout or after-school programs which are often used in Title I targeted assistance schools;
- the reading program or approach should reflect a coherent design, including explicit instructional strategies, coordinated instructional sequences, ample practice opportunities, and aligned materials which should be implemented in an uninterrupted block by reading instruction of at least 90 minutes per day;
- the core reading program must include screening assessments, diagnostic assessments, and classroom-based instructional assessments or projects;
- the core reading program provides the basis for instruction and connects

meaningfully to supplemental materials as used in small groups, including direct instruction to groups of students at the same reading level.

A copy of the Reading First guidance draft is available at the USED website, [ed.gov/offices/OESE/readingfirst/ReadingFirstGuidance](http://ed.gov/offices/OESE/readingfirst/ReadingFirstGuidance).

Several of the offices responsible for Reading First initiatives at the state level have stated or strongly hinted that their state applications, or at least relevant portions of them, will be available on their SEA websites for eligible districts to review and initiate the planning and design phase of their Reading First proposal to the state. State applications received through June 12 will be reviewed by expert panels and funds for approved applications will be released beginning July 1. The final deadline for applications by SEAs is July 1, 2003. Many of the state recipients of Reading Excellence Act funds in August 2001 are in the process of providing grants to districts and schools eligible under the REA guidelines and are concerned about implementing these three-year grants to districts before they “begin to think about” the Reading First initiative. The states likely to submit applications the earliest are the 12 states that did not receive any REA funding. The website for the Reading First initiative is updated periodically and probably is the most current up-to-date website on USED initiatives and should be reviewed periodically for any changes.

### **New Policy Papers Suggest the Nature of Changes Which are Likely to Occur in the Reauthorization of the Individuals with Disabilities Education Act of 1997**

The Center on Education Policy, headed by Jack Jennings who was involved in the design and implementation of ESEA Title I and PL 94-142 (the predecessor to IDEA), has published three papers which suggest consensus on the likely changes to be made in IDEA, probably toward the end of 2003. Tom Hehir, who served in the Clinton Administration for six years as Director of USED’s Office of Special Education Programs and a lecturer at the Harvard

Graduate School of Education, recommends some changes in IEP requirements but overall argues that the 1997 IDEA provisions and 1999 regulations are just now beginning to be implemented and that the general structure of the law be maintained. Larry Gloeckler, State Director of Special Education in New York, urges action in the immediate future to change provisions that result in greater paperwork, while Margaret McLaughlin who heads the Center on Special Education at the University of Maryland, calls for more basic changes in the law. However, all three-- who come from different political persuasions, have had operational experience in implementing IDEA provisions at the school district level (Hehir), the state level (Gloeckler), and at the U.S. Department of Education level (McLaughlin) -- generally agree on several needed changes which are much more reasonable than the "complete overhaul" called for by the Heritage Foundation and other conservative groups, which are close advisors to the current Administration.

All three, to varying degrees, agree that the formula needs to be changed -- either at the Federal level or at the state level -- to allocate IDEA Federal funds to districts on a student-weighted formula based upon the severity of the child's disability; it should take into account the "differential costs" between serving, for example, a learning disabled or mildly handicapped student or serving a severely mentally retarded or deaf/blind student. The current IDEA funding formula is based upon the number of students placed in special education programs by state without regard to the severity of the disabilities. Many states provide state funding based on student weighting, which takes into account the severity of the handicapping conditions. Such a weighing would result in a large fraction of Federal funds being allocated to services for approximately 20 percent of the total number of special education students, with the remaining groups, including learning disabled, mildly handicapped, and speech/language impaired, being allocated a lesser amount per student. As Hehir argued, "An advantage of this approach is that it targets money where it is most needed and it targets money on a population whose eligibility for services is beyond dispute." During the March Council of Great City Schools legislative conference, Dr. Robert

Pasternack, Assistant Secretary for Special Education and Rehabilitation Services, also argued for such changes in the IDEA funding formula.

Hehir, Gloeckler, and McLaughlin all argued the need for early intervention approaches, particularly in grade K-3 regular education not only for students already placed in special education. They recommend that more Federal funds should be appropriated and targeted to these levels in order to reduce the number of students inappropriately placed in special education. In fact, the Administration's rationale for the K-3 Reading First initiative is designed to do just that. All agree that alternative interventions should use "proven practices" and that increased Federal funding should be targeted for this purpose.

All also agree that student performance should be the focus of accountability rather than adherence to procedural safeguards and processes which remain a primary focus of audit teams, even though the 1997 IDEA provisions clearly call for student outcomes and increased performance to be a major criterion for assessing the effectiveness of special education programs. McLaughlin proposes that such performance be measured through assessment of a special education student progress in meeting district or state standards. The new ESEA Title I reauthorization and the new annual assessment provisions, do just that. In fact, under IDEA 97, beginning in July of 2000, all special education students had to take regular state assessments or validated alternative instruments. Recent studies indicate that more students with disabilities are taking state assessments and a higher-than-expected number are actually passing, although the 97 provisions have yet to be fully implemented in any state.

While all three authors argue the need to reduce the paperwork involved in parent notifications, IEP development, and other time-consuming administrative chores, both Hehir and Gloeckler recommend significant changes in IEP and parent notification requirements. Hehir proposes to have the individualized education program (IEP) focus much more on

access issues and less on goals and objectives, eliminating short-term objectives totally. Similarly, where “reasonable accommodations” are required to allow the student to have access to the general curriculum these should be identified in the IEP. In addition, parent notification should occur only once a year unless parents request more frequent notification and reports. A report by the Council for Exceptional Children found in a survey of special education teachers that two-thirds of such teachers spend less than two hours a week on one-to-one instruction with their students; they average more than a day per week on updating IEPs, conducting IEP meetings with parents, and notifying parents of needed changes.

If the above changes are included in the reauthorized IDEA next year, the following scenario is likely to unfold. As more funds are allocated to districts based upon the number of students with severe disabilities, less money will likely be expended on learning disabled and mildly handicapped students who will still have to pass state assessments. This, in turn, will increase purchases of assistive technology and costly medical services with less funds available to purchase instructional software and related programs; these changes would create a greater demand for proven effective basic skills programs aligned with state standards at lower pricing points. One might anticipate more students being served by Title I programs or state compensatory education programs, particularly at the early childhood level.

If the revised IEP focuses more on ensuring “access,” then the demand for products that automatically provide reasonable accommodations would be in higher demand. In fact, Hehir recommends that all instructional products follow the “universal design” framework, which eventually could be required under Section 508 of the Vocational Rehabilitation Act. At first blush, one might surmise that simplifying the IEP parent notification process could reduce the demand for administrative applications. However, requirements in other laws such as the Child Health Insurance Program or Medicaid program which allow school districts to be reimbursed for related services provided to special education would also have to be simplified.

And finally, while one may agree on the reasonableness of some of the recommendations made by the authors, one of the big hurdles for Congress to overcome will be resistance from the myriad of special education interest groups representing the 13 current IDEA exceptionalities. A particular area of controversy would be the reallocation of funds through a weighting system which favors severely handicapped students. For a copy of the papers go to the Center on Education Policy, [cep-dc.org](http://cep-dc.org).

### **Two USED New Initiatives Will Attempt to List Programs and Approaches Which Meet the Criteria for Being Based on Scientifically-Based Research; Vendors of Cutting Edge Technology-Based Products and Services Should be Concerned**

In over 100 instances, the term “scientifically-based research” appears throughout virtually all of the ESEA’s new Titles, with the caveat that all products and services purchased using Title I and Reading First funds must be “proven practices.” A strict interpretation of the Law says that all technology-based products which are eligible for purchase must be based on “relevant research,” not “scientifically-based research.” It appears that the USED is going even further by including technology-based products (including, however, Internet-based products where content changes periodically), and those based on new technology advances which haven’t had the time to be tested in a rigorous manner under the “scientifically-based” requirements. The new Title I requires states to develop lists of approved supplemental service providers and products which schools that have been targeted for improvement for three consecutive years have to provide as part of the new parental choice options. It does not, however, specifically require the creation of lists by the USED, but only that USED provide guidance. USED officials have denied that lists such as the notorious Comprehensive School Reform Demonstration program lists of the late 1990s constitute a “seal of approval.”

The first USED initiative is a guide that could, according to Title I Reports (April 2002), “essentially become a list of programs eligible for funding under the new Reading First program and possibly other Federal programs.” To be published by the National Institute for Literacy, the project would initially focus only on programs that include the five essential components of reading instruction as stated in the new Law. It will not, at first, include intervention strategies for low-achieving students. It will, however, allow the contractor who develops the guide to review supplemental reading programs as well as intervention programs with the intent of assessing the degree to which they are based upon scientifically-based research and evidence.

The second USED initiative is the “What Works Clearinghouse” which, according to the USED press release of March 25, “will be an accessible, searchable, online database of evidence on the programs, practices, and products that are intended to enhance academic achievement and other important education outcomes.” The new tool (clearinghouse) will use the scientific research evidence relative to claims of education effectiveness. Its databases will include:

- an educational intervention registry that identifies potentially replicable programs, products and practices that are promoted on the basis of enhancing important student outcomes and synthesizes the evidence related to these interventions;
- an evaluation studies registry linked to the intervention registry which contains information about studies and reports constituting evidence of the effectiveness of the programs, products and practices;
- a test instrument registry that contains scientifically rigorous reviews of test instruments used for assessing educational effectiveness; and
- an evaluator registry that identifies evaluators and evaluation groups that have the willingness and ability to conduct quality evaluations of education interventions.

As the Clearinghouse RFP states “a core expectation of USED is that the interventions in the clearinghouse can be successfully adopted by significant numbers of education practitioners

throughout the nation. Therefore, the clearinghouse must include information in its listings about the existence of necessary manuals, instruction, training materials, and other resources necessary to adopt the reported interventions in different sites.” An expert Technical Advisory Group (TAG) -- consisting of approximately ten leading social science research methodologists who have expertise in the use of experimental and quasi-experimental designs -- will play a pivotal role. The TAG will indicate whether or not it supports recommendations regarding products and approaches made by the contractor for inclusion in the registries. Based upon the estimated size of the What Works Clearinghouse project, it could make the recently-created California clearinghouse look small, not just in terms of relative budgets, but also in the prescriptive nature of the project’s intent, particularly products and approaches that are included and rated in terms of effectiveness. On the other hand, with regard to the evaluators registry, the RFP states “it is not USED’s intent that the contractor review the accuracy of information submitted by interested evaluators, nor that the contractor assess the qualifications of evaluators to judge whether they are good enough to be included in the registry...inclusion in this registry does not mean certification or endorsement by USED.”

During the last American Association of Publishers legislative conference in February, the nature and intensity of questions addressed by members to USED officials who mentioned the development of a “consumer’s guide on what works,” strongly suggest mounting opposition within the textbook publishing arena. In an April 5 letter to Pat Schroeder, President of AAP, Secretary Paige stated “there is not an “approved list” of programs and materials to be used in connection with Reading First.” A recent policy conference call with SIIA software publisher groups identified a number of issues and concerns relating particularly to products based on new advances in technology which have not had a chance to be evaluated using experimental control techniques over time. Several SIIA participants suggested that the criteria for assessing the effectiveness of a core curriculum products delivered online should be different from those used to access a technology-based teacher

tool, whose effectiveness may not be assessed in terms of student performance but rather should be based upon productivity.

Without question, the What Works Clearinghouse and to a lesser extent the NIFL guide will surpass the politics of the notorious CSRD list of “model programs,” 17 of which were actually written into the law at the last minute. Subsequent evaluations by groups sponsored by a group of education associations, found only two of the 17 had rigorous empirical evidence of effectiveness. For information on the NIFL study/guide, go to [www.nifl.gov/nifl](http://www.nifl.gov/nifl) and for the what works clearinghouse go to [www.ets.gov/spg/ED/OCFO/CPO/ed.02](http://www.ets.gov/spg/ED/OCFO/CPO/ed.02).

### **On April 8 the Deadline for States to Become Compliant with the 1994 Assessment and Accountability Mandates, Secretary Paige Claims that all States are Now in Compliance.**

A USED press release on April 8, entitled “All States Now in Compliance with 1994 ESEA Paige Says; Fewer Than Half Were in Compliance With the Law When Paige Took Office.” In fact, only 19 states have received full approval for being in compliance, while 27 states have timeline waivers and five additional states have entered into “compliance agreements” to become compliant in time-frames up to three years. The reauthorized ESEA clearly states that after April 8 (90 days after the law was signed by President Bush), USED can not approve any more waivers related to the 1994 mandate. If the five states -- Alabama, District of Columbia, Idaho, Montana, and West Virginia -- had not been able to negotiate acceptable compliance agreements by April 8, USED would have been compelled by the new law to withhold 25 percent of their Title I state administrative set-aside. Apparently satisfied with the results, USED now has to confront the problems and hurdles of ensuring that approximately 40 or 50 states meet the new accountability and assessment requirements -- including annual testing of all students in grades three through eight -- in the new law. Approximately 8-10 of current state assessments are compliant with most of the mandates in

the new accountability and assessment provisions.

The effect of granting waivers and extended timelines means that state assessment systems in over 30 states will be changed to meet the Federal mandates. In addition, some states, such as Maryland, have recently made decisions to change their current assessment systems which had been fully approved by USED; these states may now be considered out of compliance with the 1994 mandates. As reported in Education Daily (April 10), Jack Jennings, Director of the Center on Education Policy and a key staff member on Congressional education authorizing committees for over 25 years stated, “If Paige is giving waivers to states for the old law, that’s a signal that there is going to be weak enforcement of the new law. He can’t criticize the old Administration for giving waivers and do it himself.” As reported in Title I Reports (April 2002), the Maine assessment and accountability proposal, which was only recently fully approved by USED, allows the districts to report results on children who are “economically-disadvantaged” as follows: for students tested in grade 4, students who do not have Internet access at home will be classified for reporting purposes as “economically-disadvantaged”; and, at the 8<sup>th</sup> and 11<sup>th</sup> grade levels, economically-disadvantaged will be determined by the highest level of education for the parent or guardian. Most other states whose plans have been approved use traditional poverty measures for designating groups of students as being economically-disadvantaged and reporting disaggregated data by students and subgroups.

Concurrent with this recent “rush to approval,” USED has convened, as required by law, 22 individuals representing various stakeholders to participate in several negotiated rule-making meetings in order to clarify USED’s proposed regulations regarding assessment and accountability. One of the major issues is whether states should be allowed to use norm-referenced tests for assessment and accountability purposes. Draft regulations stated that norm-referenced tests could be used if they were augmented with additional items to address “fully and accurately” the “depth and breadth” of the state’s academic content standards.

Several representatives from states, such as California and Louisiana, argued that off-the-shelf norm-referenced tests have a high degree of alignment with their state standards. The final consensus was that norm-referenced tests will be augmented only to ensure that the augmented test accurately measures the depth and breadth of state academic content standards. Democratic leadership in the House and Senate sent a letter to USED stating that USED's proposed regulations would make it virtually impossible to compare districts. In addition to mounting criticism of USED interpretations among leading Democrats in the Senate and House, a lawsuit has been filed by the Center for Law and Education arguing that the 22 negotiators selected by USED did not adequately represent the parents of disadvantaged students; this legal action could lengthen the process of developing regulations.

As an over-arching and fundamental constitutional issue, many have argued that No Child Left Behind "federalizes" education which has traditionally been a state responsibility; this is a stated reason why its passage was opposed by the American Association of School Administrators. Looming large in the near future is whether USED will actually enforce the new provisions requiring the prerequisite qualifications for hiring new teachers and teacher aides (see March [Washington Update](#)); this has direct implications for virtually all TechMIS subscribers. In order to meet a strict interpretation of these requirements, school districts will have to allocate significant portions of funding from various ESEA titles beyond Title I, to attract "highly qualified" teachers through salary increases, signing bonuses, and incentives to work in low-performing schools, thereby leaving fewer dollars for purchasing instructional materials, related products and services, including staff development. More serious are the problems and difficulties confronting school districts who use teaching aides extensively. Those currently employed as of January 9, 2001, must have a high school diploma or GED and those to be hired must have passed a state test or certification or have at least a two-year college degree. Under current USED interpretation, this could cover not only aides paid out of Title I, but also aides from any other source (see Special Report). The question here is

whether there will be a technical amendment or a ruling by USED to extend deadlines. In the meantime, until these issues are resolved, districts are holding back on determining Title I budgets for next year to determine how much more will have to be allocated to address the highly “qualified teachers” and “para” problem. One exception will be districts that received concentration funding for the first time and large overall Title I increases (as outlined in the June 2001 TechMIS Special Report). Because these districts received 90 percent of their total allocations for last year late in the year (October/November), they are likely just now identifying schools to be served for the first time with Title I funds (see related [Washington Update](#) item). They will use FY 2001 funding to purchase staff development and products this Spring and Summer. Please call Charles Blaschke if you have any questions.

### **States are Picking Up Some of the Funding Slack in School to Work Programs as USED Phases Out Federal Efforts**

Created in 1994, the Federal School to Work (STW) Act officially ended in September 2001, although \$325 million in school-to-work grants were issued only months before the “sun set” on STW. However, in FY 2001, according to [Education Daily](#), 16 state legislatures appropriated more than \$90 million for school-to-work related activities and about 20 state legislatures are considering additional related bills. The Federal STW effort was jointly funded and administered by USED and Department of Labor; the proposed DoL budget for FY 2003 would cut school and career development programs for at-risk youth that have been around for three years, from \$250 million a year ago to \$44 million, as part of a “phase out.” Numerous studies of school-to-work programs found that most STW initiatives across states were effective in getting previously disparate state and local agencies to develop more seamless and efficient middle school through community college efforts. On the other hand, for a variety of political reasons, school-to-work initiatives were the focus of vicious attacks by national and state conservative and similar groups, which is likely the underlying reason why the Bush Administration has let STW expire and has reduced Department of Labor At-

Risk Youth Demonstration Programs (which also received positive ratings from independent evaluation groups). While states will continue to receive Federal STW funds for the next four years as part of their five-year grants, state legislatures appear to be willing to appropriate increased funding for related state initiatives, largely because of strong support for school-to-work type activities by governors and the business community. During his campaign, Virginia Governor Mark Warner identified vocational and technical education -- including school-to-work related activities -- as his top education initiative in order to meet the demand for graduates with necessary information technology and related skills, particularly for the Northern Virginia area. According to Maryland state officials the demise of the Federal STW program has impacted state initiatives known as "career connections" which was launched in 1995. This planned ten-year effort, now in its seventh year, emphasizes smaller learning communities built around career clusters and systematic career development activities from pre-K to lifelong learning. An important element requires that instruction and assessments relate to concepts in real world settings. Since 1992, many states have been adopting or adapting their own version of the SCANS "foundations" and "competencies" developed by the SCANS Commission which was headed by Arnie Packer. Its initial success, and now successful implementation almost nationwide, can be attributed to the fact that the Commission sought comments, suggestions, and recommendations from several thousand firms which constituted a "buy in" for the companies who were instrumental in fostering its implementation in their states. In many cases, the concepts and techniques identified with school-to-work, and even certain concepts such as "applied academics" associated with Perkins Vocational Education Act, are now being integrated into state initiatives.

Among the reported successes of STW were the fact that about 80 percent of employers nationwide participated in school-to-work activities, as did more than 3,400 post-secondary institutions. According to Education Daily (April 12), both USED and DOL are planning to provide online information to assist the 25 recent STW grantees implement their initiatives

over the next four years. In addition, a school-to-career network that lead states were involved in planning, is now on hold, although states in which school-to-work look-alike initiatives are growing do appear to communicate extensively with each other. All of the proposed new state initiatives related to the concept of school-to-work include a combination of tax credits or other subsidies for internships and targeted training in high-demand technical skill areas such as information technology or manufacturing technology. In Minnesota, a bill is being considered which would provide \$10 million in grants to local governments to support learning activities during nonschool hours for participants in workforce development programs and related school-to-work initiatives.

The Perkins Act for career and technical education -- including Tech Prep -- has many months before its required reauthorization. Within the next few months, however, there are likely to be significant clashes between the traditional vocational education community and USED and even states responsible for implementing some provisions in new ESEA, particularly regarding provisions calling for all teachers to be highly qualified which means among other things, they must have a four-year college degree or to otherwise be certified to teach in public schools. A large percentage of vocational education instructors would not meet such college degree requirements and most states do not have certification programs for individuals providing instruction in vocational classes. Another clash will be over assessments as reflected in the ongoing debate in Massachusetts as to whether students in vocational education programs should have to pass the state's academic test in certain content areas.

### **Most Education Groups Agree on Proposed FCC Policy Change to Allow e-Rate Applicants to Determine Whether or Not to Use the BEAR Process**

While some education groups differed on some of the FCC's proposed changes in e-Rate policy, comments of education groups suggest that most applicants feel that the generation of

e-Rate refunds under the BEAR process have positive benefits and would require that service providers allow the applicants to have sole discretion as to whether or not they receive checks through the BEAR process. In its comments, the AASA stated that “funding should not be credited back to service providers.” Joint comments from COSN, ISTE, and the National Education Association strongly urge the FCC to allow applicants to decide whether to use the BEAR process. In the past, some large telecommunication service providers required applicants to use the regular invoice process. As noted in the March Washington Update, during the last twelve months approximately \$3 billion was allocated to applicants, including Year 3, Year 4, and earlier “meritorious” appeals. Of that amount, \$1.8 billion was allocated through the BEAR process using Form 472. In those districts where the e-Rate office is headed by “the instructional technology” group, it is very likely that well over half of the BEAR reimbursements were used to purchase hardware, software, staff development, and other items which are not eligible products and services under the normal e-Rate application process.

Not surprisingly, virtually all education groups believe that unused funds from one year should be carried over to the next year. Education groups, as well as several companies such as Dell, argue that wireless technology should be eligible under e-Rate discounts. Groups such as ISTE, CoSN, and NEA feel that the FCC should establish a list of eligible services with periodic updates as has been the case in the past. Other groups such as SIIA believe that publication of such lists could not take into account technology advances. To the extent changes in FCC policy do occur, they would not affect Year 5 e-Rate funding, which closed in January.

In mid-April, the first Wave for Year 5 (which in the future will be referred to as FY 2002), was sent to applicants in the form of “funding commitment letters.” Virtually all of the applicants in Wave 1 requested only discounts on eligible Priority One telecommunications and Internet products and services. During the April 22 service providers conference call,

SLD officials confirmed that, because the aggregate demand in Year 5 for internal connections is \$2.8 billion, it is not likely that applicants at the 90 percent discount rate whose request will be approved will receive all the funds requested. Rather, prorations will be required. The comments on the FCC proposed rule-making can be reviewed at [www.FCC.gov/e-file/ecfs.html](http://www.FCC.gov/e-file/ecfs.html).

**Title I Implementation Uncertainties Reign at  
Annual National Association of Federal  
Education Program Administrators Conference;  
Comments by USED Officials and Key Legislative Staff Suggest  
a “Reasonableness” Mentality Will Prevail**

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

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During the annual NAFEPA Conference, questions and uncertainties regarding the implementation of some of the major new ESEA and Title I provisions were rampant. Comments -- both official and off-the-record -- by USED officials and key Capitol Hill staff involved in drafting the new legislation suggest that for the most part some “reasonable” definitions and compliance standards will prevail; otherwise some states such as Vermont are seriously considering (Education Week April 22) not to accept Title I funding. Or worse, a state could file a lawsuit which eventually could result in a Supreme Court decision which finds portions of the Law, particularly those which “federalize” education, to be unconstitutional.

The key USED official -- and no stranger to the NAFEPA group -- Dr. Joseph Johnson, reiterated several points which he made during the March Council of Great City Schools meeting; these were summarized in the March TechMIS Washington Update. He reiterated the notion that Title I directors should do what “they think is right for improving student academic achievement” and “don’t ask questions,” emphasizing that the “intent” of the law is more important than what is on

paper. He emphasized that states need to be implementing some provisions “last week,” such as identifying lists of supplemental services and their providers who have “track records,” because, in September, schools which have been targeted for improvement for three consecutive years will have to meet the new supplemental services and parent option provisions. He also noted that districts should lobby state offices, and even legislatures where necessary, to ensure that data on individual students -- such as an “itemized analysis” which can be used for diagnosis and prescription -- be provided to districts, teachers and principals in a timely manner and that states should “demand that testing firms provide quick turnaround on scoring.” Legislators in some states may have to take quick action to ensure that state laws which are in conflict with ESEA are modified, including those which affect reporting individual student data. States also need to define “adequate yearly progress” (AYP) within the parameters in the new Law and come up with a “trajectory” over the next twelve years for measuring progress toward meeting the eventual goal of proficiency of subgroups of students.

He reiterated that “scientifically-based research” as a basis for proving what works was defined by Congress and that applying the term to early reading instruction practices is the only area where such research currently exists. In other areas, he urged Title I directors to “ask harder, harder questions” and to require groups that promote products to “show you the data.” While he mentioned that the “team” involved in negotiated rule-making had addressed some of the concerns related to accountability and assessments (see [Washington Update](#) item), he noted that the USED will not be using negotiated rule-making process in developing guidance letters related to AYP, schoolwide programs, the “paraproblem,” “highly qualified teachers,” and private school issues in the near future. Once comments are received on the guidance letters which will be posted on the NCLB website, draft rules will be published in the Federal Register; after comments on the rules are received, final regulations will be published, most likely in August.

During our discussion, Dr. Johnson indicated that a guidance letter on the “paraproblem” will be issued shortly (see March [Washington Update](#)). Regarding the issue of what types of aides will be required to meet the new requirement (i.e., having completed a two-year college degree and/or

passed a rigorous state or local assessment), only newly-hired aides who will be involved in instruction under direct supervision of a teacher will have to meet these new requirements. As noted in our March TechMIS Washington Update, other officials at USED has indicated that all aides employed by the districts using Federal, state, or local funds would have to meet the new requirements. On the other important issue, Dr. Johnson indicated that the guidance letter would also state that, in Title I Targeted Assistance schools, only those aides paid for under Title I that provide instruction will have to meet the new requirements. However, in Title I schoolwide programs (which will likely expand from about 20,000 today to almost 30,000 as a result of the 40 percent cutoff replacing the 50 percent cutoff for eligibility), that all aides paid for out of Federal funds would have to meet the new aide qualifications requirements.

During the conference and in small group meetings, a number of issues related to “supplemental services” were identified, discussed, and in some cases “cussed” by Title I directors. When asked about the implementation deadline, Dr. Johnson said there was no choice left up to USED related to the parent choice and supplemental services provisions, which in schools that have been targeted for three consecutive years must be implemented beginning in September. Dr. Johnson urged Title I directors to begin the parent notification process about choices available to them -- either having their child sent to another public school or to be served by a quasi-affiliated district or separate service provider that has been recognized on the state’s “list.” During a meeting of selected Title I coordinators sponsored by Sylvan Education Solutions, a survey of attendees reported that only about half of the Title I coordinators were familiar with the details of the “supplemental service” provision, but three-quarters have begun in one way or another implementation of the provision. One high school Title I director from a large California district raised the question as to what if a student being served in an in-school Sylvan classroom went to another school, would the Sylvan fee be reduced if transportation were not available to bring the child back to the Sylvan in-school classroom. The question was then raised as to could the up-to-5 percent allocated for transportation costs be used to pay for the cost of transporting the “education program” to the learner since the Sylvan curriculum was also available on the Internet. The Washington lobbyist who was involved in helping committee staff draft the supplemental services provisions, indicated that the transportation costs were related to

transporting the students and not the learning; however subsequent discussions with the key Democratic staffer suggested that if it were more cost-effective to transport the learning (e.g., purchasing a laptop computer and providing Internet access vs. actual transportation of the child), then he felt the Democrats would support such an option. In a discussion with the person primarily responsible for drafting the rules and regulations for NCLB, Dr. Cheri Yecke, the question was raised as to whether the regulations would specifically include distance learning as an appropriate mode for providing approved supplemental services thereby overriding the “close geographical proximity” requirement in the law. She indicated that the Congressional intent was clear in the Conference Report and that “distance learning” would be a “viable option in the regs,” a point that was made by Dr. Johnson during the annual Council of Great City Schools legislative conference. A flexible definition of related “transportation” costs is important because the required supplemental services allocation is between five and ten percent of a school’s Title I budget, and transportation costs may be as high as five percent which could therefore contribute additional funds to instructional services.

A number of the Title I directors in attendance indicated that they would be using Title I funds to create after-school or related programs which are research-based and which offer high potential for improving student academic performance as their supplemental service. They would be attempting to get these programs included in the official state list in an attempt to minimize the potential of Title I dollars “following the child,” under parent choice, to private tutor groups etc. (See rationale in March Washington Update). After the formula for determining how much money could flow out of the district was described to attendees, even more Title I directors began seriously to consider such options. Under the new formula, the amount of funding to follow the child is based upon each school’s total Title I allocation divided by the number of Title I eligible students. In a schoolwide program, for example, with 300 students with half eligible for Title I and the remainder noneligible, if the Title I allocation for all students is \$500 then the amount that would flow outside the district to “follow the child” from a low-income family would be \$1000.

During the NAFEPA conference, I mentioned to Dr. Johnson some major conflicting findings from

two groups who analyzed the same data in the Longitudinal Evaluation of School Change and Performance (LESCP) Study for which Dr. Johnson, among others, was a principal advisor. As reported in the September 2001 Washington Update, Westat, which was hired to collect the longitudinal data, found “Students whose fifth grade teachers reported spending a great deal of time engaged in very basic instruction --- using work sheets reading aloud, using other types of relatively routine skill practice --- made fewer gains on reading tests than those whose teachers reported spending only an average amount of time working at that level. Growth in test scores was ten percent lower when teachers spend a lot of time on basic instruction than when they spend little time engaged in these activities.” A year later, Abt Associates, funded by USED under the new Administration, reviewed the same data and, according to Education Week (April 11) which reported on recent American Education Research Association presentations, stated, “To their slight surprise the [Abt] researchers found that successful teachers made extensive use of straight-forward skill drilling --- a method criticized by some educators as dampening student creativity along with other techniques.” Such contradictory findings of two groups analyzing the same data suggests the need to apply the concept of scientifically-based research to USED’s research effort in an attempt to explain the variations and what the true findings were before the concept is foisted on school districts under the new legislation.

According to Education Week (April 17), the Planning and Evaluation Service within USED which has been involved directly with the Longitudinal Survey, will be “broken-up” by the Office of the Secretary. As noted in the article, Planning and Evaluation Services has gotten “political heat and attention during the past Democrat and Republican administrations alike; rightly or wrongly the political party out of power has often looked askance at conclusions put out by the service and its long-term director.” The House recently passed reauthorizing legislation for the Office of Education Research and Improvement that would create a National Center for Education Evaluation which would be designed to have a “political buffer” for analysis similar to the “buffer” designed for the National Center for Education Statistics.

During the conference, a NAFEPA legislative position dated April 2002 was provided to the

conference attendees to be used for lobbying their senators and representatives. Some of the key positions include:

- support for fully funding IDEA up to the 40 percent authorized by Congress 26 years ago “as long as the full funding for IDEA does not compete with funding for Title I”;
- the measure of qualified paraprofessionals should be directly linked to the competencies required by their position;
- support for the transfer of Head Start from DHHS to USED to create continuity between Head Start and Title I;
- opposition to vouchers by any name, include tax credits, and portability;
- opposition to “block grants” as they would allow states to reappropriate Federal funds.

For additional information about the conference and/or NAFEPA’s position, contact Mary Conk, 703/875-0733, or go to [nafepa.org](http://nafepa.org).