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USED Letter to Chief State School Officers Confirms Districts Identified for Improvement Cannot Provide SES but Allows States to Establish Certain "Parameters" and Flexibility Beyond Earlier Restrictions

On December 28, Assistant Secretary Simon sent a letter to Chief State School Officers explaining USED policy on several issues related to supplemental educational services, including:

- whether a district that has been identified for improvement can provide supplemental education services even if the district program is demonstrating progress in increasing the student reading and/or math scores more than approved service providers;
- whether SEAs can influence the actual delivery of services.

As the letter states, "Title I Regulations prohibit an LEA in need of improvement from serving as an SES provider." The letter emphasizes the need for the SEA to provide an LEA "as much advanced notice as possible of a potential change in improvement status to allow the LEA previously serving as an SES provider to act quickly to offer parents who sign up for its service the option of selecting another SES provider immediately."

Later on it states, "We would expect that the LEA would cease offering its SES program no later than start of the next semester of the school year." If the LEA continues to provide the services, it cannot charge Title I for expenses and apply that against the 20 percent set-aside requirement. As reported in the media, this issue has become a major bone of contention between Chicago Public Schools and USED. Both Illinois Governor Rod Blagojevich and State Superintendent Dunn have requested a waiver to allow Chicago and nine other districts to continue providing their own tutoring programs until the end of the school year instead of switching service providers by the beginning of next semester in early February. The Council of Great City Schools has argued that a strict interpretation of NCLB provisions would allow a district identified for improvement to continue providing SES as long as it has a documented record of increased student performance. If this regulatory policy is upheld in the courts, then opportunities for firms to partner with districts who provide their own services will be reduced as more and more districts are being identified for improvement. On the other hand, creative exploration of alternatives such as working through regional service centers, consortia, teacher groups, parochial schools, among others, could provide good opportunities. Generally, however, the firms benefiting most are those which provide SES.

As we noted in the November 2004 Washington Update pro-NCLB advocates, such as the Thomas Fordham Foundation and the American Enterprise Institute, have recommended that SES be provided first before the parent transportation option due to the lack of capacity of many high-performing schools to enroll SES-eligible students who are to be transferred. In her testimony on January 6, Secretary Designate Margaret Spellings, in a response to Senator Clinton's question addressing the capacity issue, stated, "We do need to work on the capacity issues. Now that we are several years into this Law, supplemental service options may be more viable for some of those parents and families as well" (Education Daily, January 7, 2005). Secretary Paige on several occasions has stated that under certain conditions it is possible to use SES before parent transportation choice (as noted in a related Washington Update item). If USED strongly supports providing SES first before the parent transportation option, then significantly more money will be allocated for such services.

While the Simon policy letter states that a local education agency may not set additional requirements to a provider's program design, an SEA, if it so chooses, could establish certain requirements and parameters which could affect the program design and services of a provider. Among the "set of parameters" could be an hourly fee rate for different types of providers taking into account the provider's student/teacher ratio, the number of sessions offered, and the "quality of the provider staff." USED's policy over the

last three years has indicated that a state could not require the provider staff to meet the requirements of a highly-qualified teacher. However, allowing a higher hourly fee to be paid to the provider if it uses highly-qualified teachers, would provide an incentive for the provider to ensure its staff meets the highly-qualified teacher requirements. The guidance also makes it very clear that an SEA can intervene and provide assistance in a number of problem areas which have surfaced, including:

- providing access to LEA facilities for providers;
- LEAs' limits on providers abilities to promote their services;
- difficulties which providers have had in communicating with parents of their students;
- arranging meetings for providers to meet with teachers and principals;
- removing barriers to parent participation in SES activities.

This policy letter from USED to SEAs encourages SEAs to exercise their options in conducting activities for which they are clearly responsible, especially monitoring services offered by approved providers to ensure they contribute to increased student achievement. Moreover, as noted in a related Washington Update item, the Office of Inspector General has included as audit activity, implementation of SES

at the state and district level to determine whether providers are actually providing the services for which they are being paid. It also chides most SEAs for not providing notice to districts early enough for them to help parents in finding alternative service providers when the district is identified for improvement. This too, is a planned audit activity to be conducted by the OIG. By reminding SEAs of their responsibilities and additional requirements they can impose upon not only providers but also LEAs, the policy letter also implicitly accuses many LEAs (who would rather provide their own SES than contract with outside groups) of being "part of the problem" if they create barriers and an uneven playing field for outside providers. How SEAs respond to the policy letter and in turn, how LEAs interpret the implications, will affect the ways a firm approaches an LEA which may become even more difficult to determine.

New Toolkit for Supplemental Education Service Providers Offers Useful Hints on Critical Problem Areas

The Supplemental Education Services Quality Center operated by the American Institutes for Research (AIR), recently published a Toolkit to help firms decide whether to seek SES approval and/or how to implement such services. It also clarifies some issues addressed in the Non-Regulatory Guidance on SES published in August 2003 by USED. Differing from statements by some USED officials, the Toolkit correctly states, "Unless a lesser

amount is needed to meet demand, districts are required to spend between 5-15 percent of an amount equal to their Title I funds on SES." In a footnote, it also states that this amount could be as much as 20 percent if there is no demand for school-related transportation. As the Toolkit also notes, each district's per-pupil cost for SES is the lesser of the actual cost of services or the district's per-eligible-Title I-child allocation under Title I. Estimates of the maximum per-child amount for SES for FY 2004 for each district in the country are available at www.ed.gov/about/overview/budget/titlei/fy04/index.html. The Toolkit also reminds SES providers that the estimated allocation by USED does not take into account state adjustments for school improvement set-asides and individual district adjustments for Title I-eligible students being served by charter schools or county entities which would actually reduce the amount of funding per eligible child for each district.

Noting that states had been given flexibility to consider approving a variety of providers to increase parent options, the Toolkit also lists the types of evidence of effectiveness requested from the applications during the SEA approval process, including:

- Student achievement data from valid and reliable performance tests from a state, district, and/or independent test developer.
- Student performance data using a measure, that is not nationwide or statewide, developed by the SES provider or using school grades, homework completion or

results of a school/teacher administered subject area test.

- Letters of reference from previous clients, such as parents of students, offering testimonials on the positive impact of the program.
- Additional evidence of improved outcomes such as student attendance, retention/promotion rates, graduation rates, family parent satisfaction, or student behavior or discipline, as well as statements from students themselves.

The State will also request linkages between research findings and program designs as a justification for selections. The Toolkit cites a recent handbook developed by Dr. Olatokunbo Fashola, which refers to research-based guidance for designing afterschool programs, entitled "Building Effective Afterschool Programs" (www.corwinpress.com/book.aspx?pid=7405).

The Toolkit also includes several program design features created by the National Center for Training and Education Assistance, ranging from breaking down concepts into small, manageable chunks of information to asking questions to determine if a student understands. One of the major problems identified during the first two years of SES implementation, particularly in large urban districts, has been inadequate alignment between third-party SES providers' curriculum and state and/or district standards and assessment domains. The Toolkit

advises SES providers to "make sure you're your instructional program complements, but does not duplicate, the district's own instructional program." While the Toolkit is targeted primarily at third-party SES providers, many of the suggestions and guidance also apply to firms which have products and services that could be provided to districts which operate their own SES programs. For more information go to www.tutorsforkids/documents/SESProvidersToolkit.pdf.

Administration's Priority on Early Intervention Strategies Continues to Grow But "Who Will Implement Them and How" Should be a Concern for Marketeers

Without a question, the Bush Administration has firmly imprinted "early intervention strategies" as a preventative measure for many borderline, at-risk students. The publication of "lists" of programs which address the "five essential elements" for meeting scientifically-based criteria (SBR) under Reading First was, in many vendor quarters, the most controversial issue during the first Bush term and will likely expand to other areas now. As we have reported over the last two years, the preferential intervention provisions in the new IDEA remain unclear in terms of two questions:

- Could IDEA funds be used only to purchase core curriculum interventions which have all of

the five Reading First elements or can they be used to purchase supplemental software and materials and related professional development?

- Will a lower set of SBR criteria or standards be applied to supplemental software and materials that are aligned with core materials or will they have to meet rigorous SBR standards?

Behind the scenes, an enormous amount of time, dollars, and energy have been focused on these issues as USED begins to prepare draft IDEA regulations. The President's proposed secondary initiative also includes early interventions, particularly at the eighth grade level, for struggling students to ensure they succeed in high school and thereafter (see related Special Report). At this writing, we have not been able to identify any office, much less individual, within USED, which is taking a lead role in planning these initiatives, much less defining in more detail the nature of interventions which are likely to be encouraged or allowed. Amidst these questions and uncertainties at the Federal policy level, the bottom line question which has not been thought through carefully is who or what office at the district level will be responsible for implementing these early intervention and how will they be implemented. Discussions with knowledgeable special educators, at both the policy and district level, suggest a variety of alternatives exist.

Discussions with a former high-level USED special education official who

was subsequently involved in the instructional software business, as well as conversations with several veteran district special education officials, suggest several options. During the 2004 Council for Exceptional Children pre-conference workshop sponsored by MCH, several special education directors from large urban districts indicated that they were already providing "early interventions" for certain students prior to their being placed in special education; this would continue, although the range of interventions selected for use could be much more limited. Local or other Federal funds were used to support purchases of these interventions. Another perspective was that there is no incentive for the special education office to allocate some of its IDEA funds to an outside office. This official also noted that few certified special education teachers are trained in teaching reading skill development, which could result in further inertia.

Another group of special education directors and related officials believe that the prereferral intervention provisions, in combination with encouragement of the use of Response To Intervention (RTI models vs. discrepancy IQ models) for placing students in special education, could affect the school psychologist role significantly and, in certain cases, that person could take a lead role in implementing such interventions. According to Eric Hartwig, Director of Pupil Services in Marathon County, Wisconsin, and a 30-year veteran of directing special education services, the provisions will impact school

psychologists as a whole, changing their current "gate keeping" role for determining special education eligibility based on IQ results to much more expanded and directed team efforts in selecting and implementing interventions and monitoring student progress. The major proponents of the RTI model have been former Assistant Secretary for Special Education Service, Dr. Robert Pasternak, an advocate of increased mental health funding, and former compatriots at NICHDD headed by Dr. Reed Lyon. This office was primarily responsible for designing the Reading First initiative.

A number of ex-Federal special education policy makers, as well as district level officials, have also suggested that a new office at the district level may have to be established to strike the delicate balance required for reallocating IDEA funds for new early intervention services, while at the same time maintaining collaboration among special education officials, school psychologists, and Title I officials. They point to the new role being expanded at the district level of "reading" or "literacy" coaches under the Reading First initiative. In some districts, such coaches play important roles in selecting materials and facilitating effective implementation. In Title I, many large urban districts that operate their own supplemental education services (SES) programs, as well as some that contract out SES to third-party tutor groups, have created separate Supplemental Educational Services offices, or at least assigned a person responsible for SES within the Title I office. At a general level, supplemental education services

are also considered an "intervention." Moreover, under the new reauthorization, IDEA funds can also be used to provide SES to special education students who are in a school identified for improvement for two consecutive years. Unlike Title I, which does not allow districts which are required to provide SES to use portions of the 15 or 20 percent earmark for administrative purposes, IDEA regulations will allow IDEA funds to be used for such purposes, particularly as general administrative applications to implement IDEA provisions are an "allowable cost."

Another important influencer is likely to be the SEA and its Technical Assistance Teams created to implement school improvement programs using the four percent state set-aside for that purpose. In a follow-up statement to the January 12 speech, the President stated that states would be allowed the flexibility to select what programs are to be used to implement many of the secondary level interventions (see Special Report).

Activities at the district level by designated individuals or in offices responsible for implementing the new prereferral interventions under IDEA can be expected to occur quickly for a number of reasons. The effective date of implementation of virtually all of the provisions of the new IDEA is July 1 of this year. Many states and districts will develop plans and implementation procedures without the benefit of even draft USED regulations in the area of early interventions. Moreover, most district special education officials will want such interventions, regardless of

who is responsible for implementing them, with borderline students to occur in a timely manner so that if the student does not respond adequately to intervention and is to be placed in special education programs, he/she is so placed before December when the district "final counts" are submitted to the states in order to receive state funding. If such students are not reported in the December count, state funding for special education programs could decrease significantly during this next school year.

For more information or questions about firms which have or are planning to develop appropriate interventions, please contact Charles Blaschke directly.

New Study Suggests Instructional Practices To Reduce Achievement Gaps in Mathematics Between Minority Students and Non-Minority Students

Using the 2000 NAEP math achievement scores at the fourth grade level, Harold Wenglinski has identified practices which, if supported by principals at the school building level, can reduce the achievement gaps among minority African-American and Latino students. As a result, he argues "At a given school, depending upon what practices to which they are exposed, minority students will either keep up with their white peers or fall behind. This can be construed as a positive message in that schools really do have

the power; by emphasizing certain forms of instruction, school administrators can indeed succeed in closing the racial achievement gaps in schools."

Wenglinski reported that some practices help all students such as time-on-task, conducting routine exercises, and emphasizing geometry, which proved very beneficial across the board. In terms of reducing the gap among African-American students, some of the practices which are most beneficial are increased emphases on measurement, geometry, and facts, and class time on math. Some of the practices found to be not beneficial or even negative in reducing the African-American achievement gap included emphasizing numbers, reasoning, routine problems, and time on homework. Emphasis on greater test taking with black students appears to be very negative in reducing the achievement gap. On the other hand, for Latino students, the following practices were most beneficial in reducing the achievement gap, including time in class on math, working with objects, solving real-world problems, emphasizing reasoning, emphasizing numbers and data analysis, and emphasizing geometry. A greater emphasis on routine problems as well as emphasizing facts were found to have negative effects on reducing the achievement gap. Across the board, practices which were least beneficial in achieving math increases were an emphasis on routine problems and an emphasis on algebra.

The report states that the findings should be viewed with caution. In the late 1990s, while with the Education Testing

Service, Wengliniski found that the amount of use by students of computers for instructional purposes was closely associated with higher student performance in both math and reading on earlier NAEP studies. For a copy of the current report, entitled "Closing the Racial Achievement Gap: The Role of Reforming Instructional Practices," go to www.edweek.org/links.

USED Office of Inspector General Plans to Conduct an Audit of the Implementation of Supplemental Educational Services Provisions and Related NCLB Provisions Over the Next Year

The FY 2005 work plan for USED's Office of Inspector General (OIG) calls for an audit of the implementation of the supplemental educational services provisions in No Child Left Behind to determine:

- whether providers of SES are providing the funded services;
- if such services reflect scientifically-based research and are consistent with instruction used during the regular school day and with state content standards.

This will be the first time a major provision at the heart of NCLB will be looked at carefully. The purpose of the audit is not only to assess how SES are being implemented at the state and

district level, but also whether USED regulations and Non-Regulatory Guidance (NRG) are clear and consistent and whether USED has appropriate management controls in place to monitor SEA and LEA implementation.

The first objective is to determine whether providers of SES are actually providing the funded services. A recent report from ACORN (a non-profit watchdog group) reported that fewer than 20 percent of the states are collecting any data on the performance of students receiving SES, which is clearly a state responsibility. As we noted in our analysis of the August 22, 2003, Final Non-Regulatory Guidance on supplemental education services, there are some inconsistencies and conflicting guidance in several areas. For example, the NRG states that "Parents should also have an option to change or terminate services if they are not satisfied"; yet the NRG also states that "An LEA may terminate the supplemental services a provider is providing to a student if the provider is unable to meet the student's specific achievement goals and the timetable set out in the agreement between the LEA and provider." The question here is who -- the parent or the LEA -- makes the final decision on termination. The NRG also states that, in very limited circumstances where choice is not possible, "...LEAs are encouraged to consider offering supplemental educational services during the first year of school improvement." In order to provide additional flexibility to rural or isolated districts, the NRG states, "The statute permits providers, including those that are not based within the LEA,

to use alternate methods for delivery of services, which may include online, Internet-based approaches, as well as other distance-learning technologies. Rural districts...are especially encouraged to work with providers using these technologies." Most of the states which proposed amendments to their accountability and assessment plans last Fall, requested wider opportunities for providing SES before offering parent choice transportation. However, in the vast majority of cases, USED did not approve such requests. To conduct an audit of an online SES service may prove difficult unless the district and/or the provider documents the amount of time use by the student. If the OIG audit finds online SES services are difficult to verify, then USED could discourage the use of online instruction in the future.

Determining whether an SES provider's instruction is aligned with the LEA's instructional program and with state academic achievement standards and using the types of assessments used to assess student progress would normally not be too difficult to determine. However, the Non-Regulatory Guidance states that the service provider has the right to use a test of his or her choice including one that is embedded in the program. However, in the agreement between the LEA and parent, the assessment component must be agreed to by both parties. Again, the question is who has the final say, the district, the service provider, or even the parent.

One anticipated objective of the planned audit is to determine if SES services "reflect scientifically-based research." Provisions in the Law itself and

accompanying Congressional conference reports are clear that the rigorous definition of scientifically-based research (SBR) does not apply to SES providers, practices, or programs. In fact, the SEA has the responsibility for approving the service providers based upon their proposal and supporting data that the programs are effective (see related item on new SES Toolkit). As the NRG states, "The *most important consideration* in assessing the educational practices of a potential provider should be whether those practices result in improved academic achievement in reading/language arts and mathematics." Because the SEA, through the approval process, determines what is a "research-based program of services," the auditors findings here are likely to vary from state to state.

The Office of Inspector General also plans to audit or investigate grantees or contractors where the OIG has identified the possibility of fraud, waste, or abuse of Federal funds based on information received on the OIG hotline. The objective is to determine if high-risk grantees and contractors are in compliance with applicable laws, regulations, grant terms, and contract terms. In many cases, the grantees or contractors are recipients of Congressional earmarks included in annual appropriation acts, often referred to as "pork barrel" projects. In addition to the OIG office conducting such investigations, the General Accounting Office recently initiated an investigation of K12, a firm which provides online instruction for home schooling and, now, in the K12 institutional environment. It has received several million dollars from

grants to recipients in Arkansas, Pennsylvania, and other locations for K-12 provided services. GAO, at the request of Congressman George Miller (D-CA), is also investigating the ABCTE group which is receiving more than \$35 million over five years to develop online staff development and certification for teachers involved in its alternative route certification program.

The OIG will also conduct an investigation of how USED and states are implementing Title III of the Assistive Technology Act of 1998 which was recently reauthorized. This program, which began in 1988, provides states funds to establish assistive technology centers which, through various financing mechanisms, provides assistive technology devices and services for individuals with certain disabilities. Here, the focus is to determine how USED monitors state compliance to ensure that only eligible recipients receive loans and whether states have sufficient controls to ensure that recipients repay such loans. This Assistive Technology Act has never been a high priority under the Bush Administration and findings from the OAG report could sound the death knell for the program next year.

Two audits will likely be dropped or modified due to events after the work plan was submitted in September 2004:

- One is a planned audit to determine whether schools provide services to eligible students with disabilities in accordance with students' IEPs, an issue which will likely be

affected by new IEP provisions in the IDEA Reauthorization which will, in the future, provide much greater flexibility;

- The audit addressing whether states are maintaining levels of special education funding effort will likely be changed as the new IDEA reauthorizations allow local districts to reduce local maintenance of effort -- in terms of local funds being used to support special education programs -- by up to 50 percent of the increase the district receives in IDEA funds.

The OIG will also focus on two NCLB assessment areas. One is the degree to which errors occur in the scoring of state assessments, an issue was addressed in a previous OIG report to the Assistant Secretary for Elementary and Secondary Education, which suggested the need to identify and disseminate best practices for management controls over scoring of state assessments. This audit will determine whether states have taken action to correct assessment result errors and whether there is a need for Federal oversight. Another audit relates to state report cards which are required to include information on student achievement, graduation rates, district AYP results, and professional qualifications of teachers, disaggregated by subgroups. The OIG will attempt to determine whether such information and report cards are supported by reliable and accurate data.

In response to criticisms from pro-NCLB groups such as the Education

Trust, OIG will also conduct an audit to determine whether districts are on track for meeting the requirement that all teachers of core academic subjects will be highly-qualified by the end of the 2005-06 school year. Other questions to be addressed are whether LEAs are hiring highly-qualified teachers and whether LEAs are notifying parents when unqualified teachers teach their students more than four weeks, both of which are new NCLB requirements. States and districts are supposed to have in place monitoring systems which will allow them to demonstrate that they are meeting benchmark objectives for these overall goals. The requirement has provided an opportunity for several firms with information systems that can be used for this purpose. A major implication, however, is that, by focusing more attention on the teacher qualification issue, funds which normally could be provided for the purchases -- such as instructional technology supplemental materials, etc. - - will be reduced. On the other hand, this focus could create an increased demand for certain types of professional development and/or certification systems. During the first year of implementation, GAO found that, of the almost \$3 billion in Title II A funds, two-thirds of the local allocation were spent on non-training activities. However, as the number of schools identified for improvement has increased, more and more Title II A and Title I funds are being set-aside for staff development. For a copy of the OIG work plan go to

www.ed.gov/about/offices/list/oig/misc/wp2005.doc.

New USED Funded Project Headed by Association of Education Service Agencies Could Aggregate Rural School Market for Online Instruction, Staff Development, and Other Services

With \$5 million over a five-year period, AESA has taken the lead role in a project, partnering with Catapult Learning (associated with Sylvan Learning) and three regional education services agencies, to demonstrate the feasibility of online tutoring as a supplemental educational service (SES) and most critically to develop model procedures such as RFPs, contracts, etc. This could have the effect of aggregating the rural school demand for online technology services. As reported in Education Week (December 9), Brian Talbot, Executive Director of AESA and former board member overseeing the E-Rate program, stated, "A lot of supplemental service deliverers don't go into rural areas...Rural districts are telling us through their education service districts that they need a way to be able to combine and leverage their numbers." One of the major barriers to the implementation of NCLB supplemental educational services, is that the number of students eligible for SES is not large enough to attract approved educational service providers. Another major barrier is the lack of uniformity in selecting and contracting with SES providers. Greater uniformity in bidding, contracting, monitoring contracts, and reporting results could lead to a significant increase in market aggregation if states

take into account the number of potential students to be served rather than isolated separate entities operating under different procedures with a limited number of eligible students.

The project director for AESA is Peter Young, who for 32 years served as a director of an education service agency in Connecticut; he emphasized the two different components of the project. One is a demonstration project whereby Catapult Learning will begin offering SES to eligible students mostly enrolled in grades 3-9. The districts participating in the Catapult project are served by ESAs in Ohio, Pennsylvania, and Georgia. Over the next couple of years, more than 2,000 students will participate in this demonstration phase using the proprietary Catapult online tutoring system. Students will receive a desktop computer equipped with electronic tablets and will be provided free dialup Internet services with VOIP. Individual tutors will work with an average of three students in 2-3 one-hour online sessions per week.

The other component, which is designed to aggregate the market, will develop, modify, or adapt procedures for identifying, selecting, contracting with, monitoring, and reporting on results of online-provided instructional training and related services. Young indicated that AESA would be responsible for developing or partnering with groups in the development of templates in various areas which may have to be adapted to meet certain state procurement and statutes and regulations. In addition to Intermediate Education Units, or ESAs, could facilitate the implementation of

online services or actually be responsible for operating such services with support provided by the private sector firms and other groups. In addition, districts could also use the model procedures and templates to provide service individually or through other consortia, where appropriate. Young indicated that the priority is to implement the feasibility demonstration as quickly as possible and to learn as much as possible from that experience before developing the final model procedures. However, he indicated that in February or March he would begin identifying the types of online services which are currently available while analyzing the procedures used to implement them to ensure the final templates provide for increased uniformity while still maintaining a degree of flexibility in certain areas to maximize the opportunities for the use of as many different online service providers as possible and reasonable. For more information contact Charles Blaschke directly or Peter Young (203) 481-4063.

Highlights of USED Recently-Released National Education Technology Plan 2004

After several postponements due to Office of Management and Budget clearance, the new National Education Technology Plan entitled, "Toward a New Golden Age in American Education: How the Internet, the Law, and Today's Students are Revolutionizing Expectations," was released on January 7. Unlike previous plans, significant input was solicited

from and provided by thousands of school-age students which is reflected in numerous areas in the report. Also, unlike previous plans, this one also attempts to tie the use of technology to the implementation of the No Child Left Behind Act. In fact, it includes a quote from President Bush that has certainly not been widely included in the mass media: "We cannot assume that our schools will naturally drift toward using technology effectively....Together, we can use technology to ensure that no child is left behind." The report also includes seven major action steps and recommendations, some of which are highlighted below:

- Technology leadership must be developed at all levels which will encourage creative technology partnerships with the business community and empower student participation in the planning process.
- Use of innovative budgeting which could include total cost of ownership taking into account tradeoffs and reallocation of textbooks, instructional supplies, computer lab, and other costs, and the creation of a technology innovation fund to carryover funds over yearly budget cycles.
- Increase professional developing in helping teachers access resources that are available to them and ensuring every teacher knows how to use data to personalize instruction, which includes interpreting data to

understand student progress and challenges and design of instructional interventions to customize instruction for every student, including online training and support.

- Ensure every student and teacher has access to e learning and encourage the use of e learning options to meet No Child Left Behind requirements for highly-qualified teachers, supplemental services, and parent choice.
- Integrate data systems, including administrative instructional databases and use assessment results to inform and differentiate instruction for every child.

In recommending a heightened movement toward digital content, the report states, "A perennial problem for schools, teachers and students is that textbooks are increasingly expensive, quickly outdated, and physically cumbersome. A move away from reliance on textbooks to the use of multimedia and online information (digital content) offers many advantages, including cost savings, increased efficiency, improved accessibility, and enhancing learning opportunities in a format that engages today's web-savvy students."

Conspicuous by its absence is no mention of increased Federal funding supporting the use of technology or implementing the most costly recommendations which are made. For a copy of the report go to

www.ed.gov/about/offices/list/os/technology/plan/2004/plan.pdf

Under Secretary Spellings, USED Likely to Allow Schools Identified for Improvement for the First Time to Provide Supplemental Education Services in Lieu of Requiring Parent Choice for Transferring Students Out of Failing School

While the Congressional Education Committee staff of most of the Republican and some of the Democratic leadership say their bosses are adamantly opposed to any legislative changes in No Child Left Behind this year, it is likely that USED under Secretary Spellings, will use the regulatory route to allow, if not encourage, that supplemental education services be provided as an option to parents prior to requiring districts to transfer students from schools identified for the first time to other schools. This conclusion is based upon our analysis of what NCLB advocates and influencers are saying as well as publications and recent testimony by Secretary Spellings before the Senate on January 6. Moreover President Bush, in his January 12 speech at JEB Stuart High School (Fairfax County, Virginia Public Schools), also strongly hinted at such flexibility.

As noted in an above item, during her nomination question-and-answer hearing before the Senate HELP subcommittee, Spellings stated, "We do need to work

on the capacity issues. Now that we're several years into this (law), supplemental service options may be more viable for some of those parents and families as well."

As we wrote in the October TechMIS report, Checkers Finn, who heads the NCLB-advocate Thomas Fordham Foundation and Frederick Hess, education policy analyst at the American Enterprise Institute, made a similar recommendation in a pre-election issue of Public Interest, Fall 2004, and also summarized in the September issue of Phi Delta Kappan. Both Finn and Hess argue as one of the ten recommended changes in NCLB to improve its effectiveness and quality, "It would make sense to reverse the order in which supplemental services and public school choice are triggered. As it turns out, districts are more comfortable with the tutoring provision than with public school choice. Moreover, it makes sense to try to help children improve their performance within a school before exiting that school...a school student would become eligible for supplemental services if it misses AYP two years in a row and an exit ticket if it misses for the third consecutive year." The Finn and Hess article was highlighted in the pro-voucher and pro-choice School Reform News (December 2005), which is an influential publication among the ultra-conservative education reform community. When Rick Hess was asked whether the SES parent choice recommendation, as well as others, would likely be adopted, he acknowledged that the recommendation has been seriously discussed but concluded with a "who knows" response.

It is commonly known that such a recommendation is very popular at the district and state level; in fact, the majority of states requested such a change -- officially or unofficially -- in their proposed amendments to their accountability and assessment plan submitted to USED last Fall. A recent report by the CCSSO entitled "Revisiting Statewide Education Accountability under NCLB" listed a number of requests made by many states that were consistently not approved by USED, including, "Switching the order of choice and supplemental education services --- school choice must be offered in the first year of identification. Further, school choice cannot be limited to non-proficient students." These decisions appear to be official, as well as unofficial, USED policy prior to last Fall.

In point of fact, some states have come up with policies which offer a number of parent options when a school is identified for improvement for the first time, including supplemental education services. As reported in the Florida profile update, the State has five options and will be required to offer at least two to parents, one of which could be supplemental education services and the other being one that has nothing to do with student transfers.

And last, if the President can be taken at his word, then one can infer additional signals of what is to come. During the President's January 12 speech regarding high school reform, he stated, "Accountability systems don't work

unless there are consequences. And so in the No Child Left Behind Act, if a school fails to make progress, parents have options. They can send their child to free after-school tutoring, or they can send their child to a different public school. "

If districts not identified for improvement were allowed to offer SES before, or in addition to, parent choice transportation options for schools identified for improvement for the first time, providing SES internally by the district could reduce SES costs, minimize disruption and administrative headaches, and likely ensure greater alignment between the SES program and district and state curriculum objectives. On the other hand, districts identified for improvement under existing USED policy (e.g., the Chicago Public School standoff) are likely to see funds leave the districts to third-party providers with possibly more disruption and less curriculum alignment between SES and district programs. One alternative recommended by Finn and Hess in their article would be to limit SES to those schools which, in the words of NCLB architect Sandy Kress, are "most broke"...namely those schools in which all subgroups fail to meet AYP targets. Obvious beneficiaries of such a policy could be independent SES providers and/or other vendors who partner with them, or SES providers that are affiliated with, but not part of, districts identified for improvement.