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MEMORANDUM

DATE: November 29, 2011
TO: TechMIS Subscribers
FROM: Charles Blaschke and Blair Curry
SUBJ: State Waiver Request Updates

In our last TechMIS issue, we indicated that we would be sending “briefs” on waiver requests from states as they were sent and posted for our team to analyze. Enclosed is the first batch with highlights that should be of interest to TechMIS subscribers.

Eleven states submitted formal waiver requests by November 14th, slightly fewer than those that had submitted letters of intent several weeks ago. Evidently the remaining states will submit their requests in the next round in February or even later. The states that submitted waiver requests were: Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, New Mexico, Oklahoma, and Tennessee. Enclosed are briefs that our team has prepared based on preliminary reviews of appropriate sections of the applications for Colorado, Florida, Kentucky, Minnesota, and Tennessee. These initial briefs focus on:

- Priority and Focus Schools and the estimated number initially identified for the categories.
- The types of interventions aligned with the “turnaround principles” in the “Flexibility” guidance for Priority Schools, particularly those not currently receiving SIG funds, and Focus Schools, where SEAs/LEAs have greater flexibility.
- The types of funding that could be used to implement interventions, including “freed-up” 20% SES and choice set-asides, from which some states, but not all, are seeking waivers.
- Examples of how “additional time” or “extended learning time” are likely to be used.

While most of the applications follow the initial USED “Flexibility” guidance and FAQs, among the five states initially reviewed there are some wide differences (e.g., Colorado proposes to continue the SES and choice set-aside at 15 percent, while the other states would use the freed-up SES/choice set-aside in a more flexible manner).

The reader is cautioned that the types of interventions and “freed-up”/other funds used to implement them, in some states’ waiver requests, are quite general and not addressed in great detail if at all (e.g., Florida), while other states will rely on very specific interventions or

assessment and related tools currently provided by the SEA or an external provider. The waiver requests will now have to go through a rigorous peer review process with USED deciding which conditions should be negotiated and whether to approve or disapprove the final negotiated request from each state. As more information on these five states emerge (officially or otherwise), we will be providing updates. Briefs for the remaining states are being prepared by our team and will be provided in a subsequent TechMIS update.

The full state waiver request application along with appendices is available on the USED website at: www.ed.gov/esea/flexibility or from the Waiver Watch tab on www.cep-dc.org.

Special Report: State Waiver Request Updates

A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT

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Colorado

The Colorado Waiver Request differs from those of other states, according to the official November 14th press release, in several respects, including:

- Primary focus is college- and career-readiness and uses measures other than reading and math, such as writing, science, and ACT scores, along with dropout rates.
- Use of its acclaimed growth model for identifying Priority and Focus Schools and establishing benchmarks;
- A heavy focus on English language learner growth and proficiency; and
- Performance frameworks and categories used to target Title I School Improvement and Title I Choice and SES set-aside funds, among others.

Regarding SES and professional development set-asides, the emphasis is even greater than under most NCLB requirements, as explained below.

The State's two-year-old "accountability system" will assist in transitioning to the waiver plan. According to State Commissioner Robert Hammond (as reported in Education Daily, November 16), Colorado's lowest-performing schools include five percent referred to as Turnaround Schools and ten percent as Priority Improvement Schools. Of the 79 Turnaround Schools, 42 are Title I; there are 191 Priority Improvement Schools including 117 Title I schools. Overall, 23 percent of the State's Title I schools fall into the two categories, which is more than the five percent minimum threshold in the Federal waiver guidance. Definitions from USED in its guidance and in Colorado statute differ somewhat and hence, the number of schools in several categories which could be the foci of initial USED negotiations could vary. Focused on these two categories, the waiver plan notes, "Colorado sees limited value in intervening in schools that are making adequate growth." Hence, the final numbers in the two categories could change. In terms of specific listings required by USED guidance, Colorado's Attachment A, lists 286 schools as Priority Schools, of which 164 are Title I. In the main text, the specific numbers are unclear; however, not all Priority Schools listed are recipients of SIG funds.

All Priority Schools must submit a Unified Improvement Plan (UIP), required by State law, which includes a description of improvement strategies (which must address the timelines for

how performance will improve). The UIP uses a research-based approach identifying specific changes in practices that will result from action steps, which are similar to general SIG requirements. However, the “choice” and “SES” component, for which significant changes are proposed, is unique and has implications for most TechMIS subscribers.

The waiver application would require Priority Improvement and Turnaround Schools to set aside 15% of the district’s Title I funds to cover the cost associated with choice and SES. Any remaining 15% set-aside funds will be required to provide extended learning opportunities, including before- and after-school programs and summer school in Priority Improvement and in Turnaround Schools. The extended learning opportunities will focus on math, literacy, science, and other core subjects, and resigns scheduling to allow more time for planning, analysis, lesson development and professional development. Any unencumbered set-aside funds can be carried over to the next year for set-asides for extended learning opportunities or as “regular” Title I funds.

School districts that have Priority, Improvement, or Turnaround Schools may continue to set aside the 10% for professional development, similar to existing district improvement set-asides. However, a Priority Improvement or Turnaround district that has no Priority Improvement or Turnaround Schools may set aside an additional 10% of its Title I funds for professional development in areas where the district’s overall performance falls short of expectation.

The proposed plan for choice and SES would be expanded to include low-performing, non-Title I schools and districts; moreover, districts would have increased flexibility in the use of set-aside funds. The waiver application argues that there is mismatch between the amount of funds schools receive under Title I and the degree of poverty in the school/district; this is generally recognized as being true nationally. The plan states, “Limiting consequences and identifications to only Title I schools, excludes many students, including many economically disadvantaged students.” The plan concludes, “Therefore, under Colorado’s plan, Title I set-aside funds and school improvement funds may be used to provide choice options and interventions in low performing schools regardless of that school’s Title I status.” As we and others have speculated, requiring non-Title I schools to set aside funds for SES and choice would require a significant bending of the rules under the Secretary’s waiver authority limitations.

Research-based strategies for Priority Schools include several options, one of which is “Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with the schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the turnaround plan and shall serve as a liaison to other school partners.” Charter school and education management organizations must also have a proven record of performance in directly-related areas.

Under state law, if a Priority Improvement or Turnaround School does not exit from its status in five years, a State Review Panel can recommend additional sanctions including school closure. The proposed waiver plan would identify schools with the lowest growth standard and lowest graduation rates for disaggregated groups of students as Focus Schools. The application process relies heavily on academic growth gaps. Using this methodology, 17 schools would be designated as Focus Schools, two of which are Title I schools. Using the disaggregated

graduation rate data, an additional 17 high schools, one being Title I, would be identified as Focus Schools. Using a variety of measures, methodologies, and calculations, the application states that there are a total of 34 schools that would be identified as Focus Schools that are not Turnaround or Priority Improvement Schools, 11 of which are identified as priority based on graduation rates. In terms of interventions, the plan also states that Focus Schools that are identified as Turnaround or Priority Improvement will be required to conduct the same activities described in 2.D.III of the application (i.e., for the 5% Priority School) including completing the UIP, notifying parents, and offering choice and SES for Turnaround Schools implementing a turnaround option. The bottom line is that there is very little difference in terms of the types of interventions that are required or encouraged between Priority and Focus Schools. However, Priority Schools that receive SIG money are subject to using the SIG turnaround model interventions, while Priority Schools that are not SIG recipients appear to have greater flexibility. And for Focus Schools, the SEA has the option of providing even greater flexibility, although from what is written it would appear that requirements between the two groups of schools are very similar.

Florida

Below are the highlights of the Florida Waiver Request as they relate to Differentiated Accountability (DA) being applied to Priority and Focus Schools, as well as some directly related NCLB provision changes. As indicated in the State's model, approved in 2007, "The support and assistance provided to each school in Florida's model is individualized depending on the needs of that school." A "tiered" approach will be used by LEAs and schools.

The State's five regional support centers will be critical in the selection of specific interventions. Priority/Intervention schools are those that received an "F" grade -- 35 schools of which 29 are Title I (using "actual" data). In the final count, next Summer the number could be as high as 112. Interventions would be managed initially by the LEAs which have to submit Intervention Option Plans indicating the model selected and how it will be implemented. If a school does not exit Priority/Intervention status during the first year, it may choose from the State Turnaround Models, including a Hybrid Model which may "blend both LEA control with governance and autonomy found in external provider." A Priority School may exit when it increases performance to a "C" grade or higher or can be placed in a "hold" status if it makes some progress but not enough to exit Priority/Intervention status. Priority Schools must implement "the most robust interventions." Professional development will include RTI and after-school time for teacher collaboration. The LEA must use the State's Problem Solving/Response-to-Intervention process. This State Introductory RTI course focusing on mathematics and science will be used to implement a Multi-Tier System of Support.

The application states that, using the most recent school grades, there are 174 schools that would qualify for "Focus/Correct" school designations -- about nine percent of the State's Title I schools. Following State statute, each school must have a School Improvement Plan, approved by the LEA, which will serve as a blueprint that includes components for RTI, literacy, leadership teams, and public school choice. An additional component is a District Improvement Assistance Plan (DIAP) due in September of each year. Title I funds can be used for acquiring

research-based reading, math, science, and writing programs and funding extended learning opportunities. The document states, “The interventions selected are based upon school transformation principles that have a proven track record of success that are both substantive and sustainable over time.” Schools with a “D” grade are Focus Schools and can exit that status when they reach a school grade of “C.” Those remaining with a “D” grade for three consecutive years must revise their curriculum and increase learning time to reflect at least 300 hours of additional instructional time for all students. About 60 percent of the hours can be used for increased learning time and 40 percent for after school programs.

Other highlights include:

- By focusing on the 25 percent lowest-performing students, there exists no need for an N size in determining progress.
- To encourage the use of innovation, charter schools are exempted in law from most of the statutes and rules that apply to other schools and are provided a wider degree of flexibility.
- In addition to the State’s Problem Solving/Response-to-Intervention, Florida’s Positive Behavioral Support System will also be emphasized.

The major body of the application does not directly address the State law which mirrors the Federal NCLB SES set-aside provision. The Feds cannot “waive” the State law. However, officials with whom we talked indicate that, once the waiver is approved, efforts will heighten to remove the State statute in order to allow SES freed-up set-asides to be used for other options, such as extended learning time.

Kentucky

Kentucky’s waiver application says that Priority Schools will include those identified by State statute as being persistently low-achieving (PLA) -- those in the bottom five percent of all districts that failed to make AYP for the last three consecutive years. Priority Schools must select one of the four SIG intervention options. Current school leadership must be replaced unless the State’s Commissioner of Education provides an exception. Governance in Priority Schools includes a school-based decision making council to evaluate the effectiveness of accelerating student learning, which the application states is “an innovative component of the model.”

The intervention process is managed through the Kentucky Department of Education’s (KDE) Office of District 180 which has three Centers for Learning Excellence that are affiliated with regional universities across the State. Each Priority School has an Education Recovery Director who works with the principal to build skills and capacities. And each school must develop a Comprehensive School Improvement Plan (CSIP) which generally follows the requirements and elements under SIG funding. Requirements for priority districts parallel those for Priority Schools.

Examples of suggested interventions include redesigning school months, days, or years to provide additional time for student learning and teacher collaboration, as well as other SIG

requirements such as: using data for continuous improvement; mechanisms for family and community engagement; establishing a school environment that includes schoolwide anti-bullying programs; information from the Kentucky System of Interventions to address school environment concerns; and the use of local providers to meet student and family needs. In terms of deadlines, Priority Schools all receive SIG funding and fall under the SIG timelines.

For a school identified as a Focus School it must fall among the 10% lowest-performing Title I schools in the State. The SEA will use three options, including the Third Standard Deviation Model, which is intended to ensure that group data is not lost: “All schools with individual gap groups under-performing in the third standard deviation below the mean... will be called Focus Schools. The calculation is done by comparing each individual gap group to the average of all students in the state. In practical terms, this calculation can be considered an AMO goal for each subgroup in a school.” The minimum N-size for subgroups is 25 students. The document states that the Third Standard Deviation Model allows Kentucky to locate individual subgroups across all schools in each subject area that need to be targeted for improvement. Using this model, a preliminary simulation found that 364 Kentucky schools would be listed as Focus Schools. The Office of District 180 will provide research-based interventions and resources be used by Focus Schools based on identified needs and “will review submissions, assess levels of implementation and recommend new or revised interventions as needed.” The development by Focus Schools of their Comprehensive School Improvement Plan would be guided by the Commissioner’s Raising Achievement Closing Gaps Council.

The total number of Focus Schools in Kentucky is approximately 410, of which 278 are Title I schools. The total number of Priority Schools is 41.

Minnesota

Unlike some of the other state waiver applications, Minnesota’s request heavily emphasized its philosophy of turning around failing schools and appeared to customize its approach based on some of the unique features and contextual factors within the State.

The 5% lowest-performance Priority Schools includes those with the lowest Multiple Measurements Ratings (MMR) as well as Tier I School Improvement Grant recipients that are implementing one of the four SIG turnaround models. MMRs combine four achievement measures: proficiency, individual student growth, growth gap reduction, and graduation rates. The preliminary count of Priority Schools, to be refined later, includes 55 schools, eight of which are non-Title I schools receiving School Improvement Grants. An additional 11 Title I schools are also receiving School Improvement Grants. The remaining 47 Priority Schools receive Title I funding. Priority Schools that implement the turnaround “principles” (not the four SIG models) outlined in USED “Flexibility” guidance are required to set aside 20 percent of their Title I funds to be used for State-approved school improvement activities. Some of these funds are likely to be freed-up 20 percent set-aside funds originally intended for SES and parent choice. Proven track records are required for principals and other turnaround “leadership” participants such as a contracted vendor. The application’s major components include Professional Learning Communities and General Teacher Professional Development which are facilitated by extended

learning opportunities. The extended learning opportunities should be “explored to find researched-based models,” which suggests a degree of skepticism about extended learning time that differs from other state requests. Priority Schools are also required to audit any pre-kindergarten programs and ensure that instruction is high-quality and aligned with K-12 standards which is another high State priority. Using data to inform instruction and providing time for collaboration on the use of data are emphasized and the State’s application especially addresses non-academic factors that impact student achievement such as student social, emotional, and health needs, and wrap-around student support activities especially for schools with high numbers of days missed as a result of student suspension. Priority Schools are also required to implement “true engagement activities for parents and the community.” While response-to-intervention (RTI) is emphasized in Priority Schools, “fidelity of implementation” will be measured based on the Minnesota Common Principles of Effective Practices (CPEP).

Planning for Priority Schools will begin in the Spring of 2012 for efficient implementation of interventions in the Fall, with all Priority Schools implementing all turnaround principles no later than 2014. In order to exit from Priority School status, a school must finish above the bottom quartile of Title I schools Statewide for two consecutive years. Exceptions to this exit rule are the 19 schools implementing SIG turnaround models.

Focus Schools selected will be based on the school’s contribution to the Statewide achievement gap and will be identified once every three years. Differing from other states, Minnesota will use a six-year adjusted, cohort-based methodology to select secondary Focus Schools under the 60 percent or less graduation rate criterion. This is because a number of charter schools operate in a manner similar to Alternative Learning Programs which work exclusively for students who are at risk of dropping out and are often multiple grades behind their cohort. As the application states, “Using the six-year rate allows a state to avoid misidentifying schools that have unique situations.” Three years worth of data will be used in determining graduation rates of Focus Schools to minimize misidentified small schools with wide statistical variations in graduation rates from one year to the next. While not final, the number of Focus Schools will be 85.

Interventions in Focus Schools will be tailored to the needs of subgroups such that the school can meet growth expectations and interventions aimed at improving graduation rates. The interventions will be based on needs assessments conducted by the LEA and the Statewide System of Support (SSOS) facilitators. Twenty percent of Focus Schools’ Title I funds will be set aside for State-approved school improvement activities. The needs assessment will determine the root causes of low performance for subgroups; interventions will be “environmentally specific” and will be developed using resource staff with culture and language backgrounds. This is particularly critical in Focus Schools with significant American Indian populations. Interventions for Focus Schools will be selected from a “cadre of interventions that can be employed to address the specific needs at the Focus Schools” by increasing subgroup performance. The State’s SSOS facilitators will help select interventions that will be “not only appropriate for skill level but also take into consideration the cultural, social and emotional level of students served.” To increase ELL subgroup performance, SSOS facilitators will train instructors on the new WIDA standards and how to use data from WIDA assessments to tailor instruction to student needs. For secondary Focus Schools, an example of an intervention would be “to implement a set of diagnostics to determine level of college- and career-readiness of

students through the use of data and reports from EXPLORE, PLAN, and ACT assessments.” At the high school level, Minnesota’s Early Indicator and Response System (MEIRS) will be used as an early warning system to identify potential dropouts and develop student-specific strategies.

Tennessee

During a webinar on November 8th, Tennessee Commissioner of Education Kevin Huffman outlined key components of the State’s waiver request submitted on November 14th. The webinar was also designed to solicit feedback from communities, parents, teachers, and education groups -- the kind of consultation which Secretary Duncan recently announced is a critical indicator of stakeholder “buy-in” to each state’s waiver request. Highlights relevant to most TechMIS subscribers are outlined below.

The State’s Achievement School District would be responsible for the 5% Priority Schools and for re-directing any freed-up SES and other funds to implement turnaround and other reform initiatives. In addition to SIG funds, Race to the Top funding would also be provided for implementing such interventions. The 10% low-performing Focus Schools, a concept which Huffman said is “new” to the state -- unlike the lowest 5% Priority Schools -- would be required to implement certain SEA-determined interventions to “close achievement gaps.” The interventions would be “tiered” based on the severity of a school’s needs. One of the goals would be identification of “exemplary” schools from which other schools could adopt best practices (i.e., tiered interventions) that are effective. A list of the 10% Focus Schools would be finalized during the Summer of 2012, although they are identified in a preliminary manner in the application.

A primary State emphasis would be district-level, rather than school-level, improvement with all districts expected to have an Annual Measurable Objective (AMO) growth of four percent annually. Focus Schools would have an AMO growth of six percent for a district as a whole in order to reduce achievement gaps for schools in the district by at least 50 percent over eight years.

In a nutshell, district reforms are critical for the 10% Focus Schools which will receive tiered interventions. Some Focus Schools would also be allocated SIG funds as well as Race to the Top funding. LEAS will have increased flexibility to use Title I SES and other set-aside funds to implement interventions, such as extended learning. The Commissioner noted that most districts had indicated a preference for doing so. In response to a question, he also said that the waiver request would not affect 21st Century Community Learning Centers programs and funding; however, he asked any concerned parties to send emails expressing their concerns. He also noted that the N-size for identifying schools for improvement (using the state’s AMO growth rather than AYP calculations) would be 30 students, down from the 45 students currently used. This would apply to Focus Schools. The Commissioner said that he felt there was a “small chance, but not likely” that ESEA would be reauthorized during the process of implementing the waivers. This is an important indicator because the major broker for ESEA reauthorization is Senator Lamar Alexander from Tennessee. The Commissioner also said that, since the ESEA bill would not include AYP requirements and would rely on the states’ accountability models,

the current Tennessee plan would likely conform to many requirements in ESEA and would be a nice, easy fit.

Update Based on Review of Actual Application (11/18/11)

The Tennessee Department of Education (TDOE) proposes to expand its current list of Priority Schools to 85 -- all of which are Title I schools -- constituting the State's five percent lowest-achieving schools. As the application states, "more of the lowest performing schools get the additional support they need to be successful," hence, all of the Priority Schools have to apply and will be approved by the TDOE to adopt one of the four SIG models. The application also notes that Tennessee, partnering with the Louisiana Recovery School District, received a \$30 million i³ grant which is designed to support and expand high-quality charter schools. This suggests that charter schools will be involved in numerous interventions for Priority Schools; these schools will be evaluated every two years.

The Achievement School District (ASD), which has significant decision-making power over Priority Schools, will have the "same authority and autonomy afforded to any LEA under state law regarding the procurement of goods and services. This includes but is not limited to personal, professional, consulting, and social services; and the procurement and/or leasing of property." For schools under the responsibility of the ASD, a five-year minimum is required for implementation of interventions. Other Priority Schools have a three- or even two-year potential exit opportunity, depending on the levels of performance increases which are achieved. By 2014, 35 schools under ASD will be fully implemented while the remaining 30 schools would be those initially labeled as LEA innovation zones or SIG turnarounds.

Under Focus School interventions, the SEA's nine Field Service Centers (FSC) will match Focus Schools with other schools having common characteristics that are achieving much better results and will otherwise facilitate the adoption in Focus Schools of best practices demonstrated in similar schools to have been successful.

Approximately 100 Focus Schools will be given grants, through competitive applications, of \$100,000 per school, with funds coming from the 4% SEA set-aside for school improvement, Race to the Top, and State funds. Final identification of Focus Schools would occur in the Summer of 2012, with additional identifications occurring three years later.

It is important to note that [Title I-derland](#), in its blog, has praised the Tennessee approach for measuring achievement gap reduction in Focus Schools by six percent annually. As it notes, "...it does appear that the plan combines growth and achievement AMOs with interventions in an elegant manner. Let's call it a Tennessee waltz (at least for now)."