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MEMORANDUM

DATE: August 9, 2012
TO: TechMIS Subscribers
FROM: Charles Blaschke, Blair Curry and Suzanne Thouvenelle
SUBJ: Waiver Update

Enclosed is a State Waiver Update regarding use of Title I funds for professional development for non-Title I teachers which is timely due to September 30th deadline for districts spending unspent Title I funds.

**State Waiver Update:
New August 3rd USED “ESEA Flexibility” Waiver Guidance Would
Allow Districts in Approved States Flexibility to Spend Title I Funds
for Professional Development for Any Staff/Teacher in Low-
Performing Districts to Improve the Performance of Any and All
Students in the Entire LEA**

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

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Without much fanfare, USED has added several addendum to its ESEA Flexibility guidance which allows all of the 33 states whose comprehensive waiver requests have been approved to provide more flexibility in the use of Title I funds for professional development for any and all staff/teachers. This goes beyond the September 2, 2009 guidance which allowed districts identified for improvement under NCLB greater flexibility at that time, which many TechMIS subscribers have been successful in expanding professional development services sales within a district. The August 3rd guidance states that while an SEA need not identify districts for improvement or corrective action, “...it may wish to allow the LEAs that are identified as low-performing based on the SEA’s differentiated recognition, accountability, and support system to spend Title I funds for professional development of any staff in the LEA to increase student achievement, especially of lowest-achieving students, in order to improve the performance of the entire LEA.” (See B-12a of Guidance) Under the September 2, 2009 guidance, an LEA identified for improvement could provide up to 10% of its professional development set-aside under Title I to provide training to non-Title I teachers in the area which caused the district to be identified for improvement (e.g., low math scores). The new guidance stipulates that the SEA must have identified the LEA as “low performing,” but not necessarily having Focus or Priority Schools. The SEA must have a prescribed set of consequences or actions that low-performing districts must undertake to improve student achievement and an LEA wanting to take advantage of this new flexibility must demonstrate to the SEA there is a need for LEA-wide professional development to be used to address factors that cause the LEA to be identified. It also states that “an LEA with an approved ESEA flexibility request but does not meet these criteria may seek to amend its flexibility request to incorporate provisions that do meet the criteria in order to take advantage of this authority.” TechMIS subscribers should inform districts of such opportunities and have them contact their Title I SEA office. As of August 8th, most SEAs were not aware of this new flexibility. TechMIS subscribers were reminded in our July 18th State Waiver Update that in a recent conversation we had with a USED official, he indicated that Title I funds can

now be spent on pre-implementation activities, including professional development, for districts which are preparing for full implementation of interventions for Priority and Focus Schools in September-October.

The August 3rd ESEA flexibility guidance, ironically, also reduces the flexibility of SEAs to allocate the 4% SEA set-aside for school improvement (see B-15). Under School Improvement Guidance, such funds could be allocated by SEAs to Tier III schools which were not required to use one of the four prescribed SIG models. However, under this new guidance, the SEA “must allocate the LEA share of these funds [4% SEA set-aside] to LEAs for use in priority or focus schools.” This is a reflection of the Administration high priority to concentrate all possible available Title I funds to lowest-achieving districts and schools, which increasingly is coming under political fire from “old line NCLB supporters,” who argue that the priority should be on failing subgroups of students in all Title I schools.

The new guidance also includes a clarification to ensure that districts implement interventions in Focus Schools in a manner that meets ESEA Flexibility and civil rights laws. The guidance states, “...ESEA flexibility does not require interventions to be focused exclusively on the students that compose the subgroup or subgroups that cause of the school to be identified. Rather, interventions in focus schools should be designed to improve the performance of the lowest-performing students in the school -- based on an assessment of the specific academic needs of the school and its students -- regardless of the particular subgroup or subgroups to which students belong. By implementing interventions in Focus Schools based upon education needs as opposed to simply membership in a particular subgroup, an LEA will comply with the relevant civil rights laws.” (See C-48a)

The August 3rd addenda provide expanded opportunity for Title I funds to be used for professional development for non-Title I teachers in a variety of areas. As we addressed in our July 18th State Waiver Update, approval of the Washington State waiver provides greater flexibility in the use of 10% professional development set-aside which had accumulated in districts over several years to be used for other purposes. It is very likely that most of the waiver-approved SEAs will be requesting amendments to allow districts to take advantage of both the new flexibility in the use of Title I funds for expanded professional development and increased flexibility in the use of accumulated previous professional development set-asides.

If you have any questions, please call Charles directly.

To review the ESEA Flexibility which includes the August 3rd addenda, go to:
<http://www.ed.gov/esea/flexibility>