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MEMORANDUM

DATE: December 9, 2016
TO: TechMIS Subscribers
FROM: Charles Blaschke, Dr. Suzanne Thouvenelle, and Dr. Paula Love
SUBJ: Likely Trump Policies and Scenarios; Final Accountability Regulations; RTI “Policies”; Equitable Services Funding for Private Schools; and Professional Development Trends

The first TechMIS Special Report addresses proposed education policies of the incoming Trump/DeVos administration with likely scenarios, including:

- Highest priorities on charter schools to increase “parent choice options” with some, but not the \$20 billion proposed funding, by “tweaking” existing programs including Title I;
- Increase in the number of childcare programs with emphasis on quantity, not quality of early childhood programs; and
- No dismantling of USED, but reduced enforcement powers of Office of Civil Rights to enforce existing and new ESSA education legislation (e.g., Title I “equal education funding/opportunities,” and IDEA students with disabilities).

Scenarios will be affected by Congressional action on the FY 2017 final budget (likely April) and “who” will influence education policy greatest (i.e., Pence, Senator Alexander, DeVos, or Trump).

The second Special Report covers final USED “accountability” regulations which include some changes to the earlier draft providing greater flexibility to states and local districts which have implications for most clients. The deadlines for districts to implement new ESSA major programs requiring interventions for “comprehensive” and “targeted” low-performing schools has been extended to 2019-20, which, as we expected, support greater opportunities now for firms to take advantage of existing NCLB flexibilities until then (see April TechMIS Special Reports).

The Congress will likely pass a Continuing Resolution which continues funding at existing levels for virtually all education programs until April 2017. At that time, a 2017 budget could be passed with significant increases in funding for certain programs (e.g., charter schools) and

removing uncertainties surrounding the “sequester caps,” which could affect purchasing cycles in niche markets (e.g., Title I).

The TechMIS report also includes the following Washington Update items:

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As always, if anyone has questions, please contact Charles Blaschke directly (703-362-4689). In our January TechMIS report, we should be able to identify more clearly for the next year other opportunities created in niche markets which we monitor for TechMIS clients.

Thank you for subscribing to our TechMIS service. We wish all of you happy holidays and all the best in the new year, in which we look forward to continue working with you.

Special Report:
**Positions of Trump Administration in Various Niche Markets
that We Monitor, Likely Scenarios, and Implications**

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

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December 9, 2016

Given the President-elect Trump (Trump) education priorities and his selection of Betsy DeVos as Education Secretary nominee, several general education priorities policies and scenarios in programs we monitor for TechMIS clients are likely to occur. If and when more details become available, we can be more specific; but there appear some likely scenarios, which in turn could play out which could have implications for many TechMIS subscribers.

At a general level, the major priorities thus far are to increase school choice, either through vouchers or most likely expansion of charter schools and to increase access to childcare for more children and parents. Closing the U.S. Department of Education will not happen, nor will Trump's called for "dismantling" Obama's remaining "flagship" programs, although the new Administration and GOP Congress will likely change the nature and extent some of the recently proposed education regulations, particularly "supplement-not-supplant" affecting Title I.

Expanding school choice will be the new Administration's highest priority. The Secretary of Education nominee DeVos is a major supporter, both financially and politically, of school choice, particularly through the creation of new state policies, especially for charter schools. For almost half a century the DeVos family, which created Amway, has supported private sector operations of charter schools. We became aware of such support in the early 1970s when the Grand Rapids school district piloted several "performance contract" projects operated by private firms and the local teacher association (e.g., a profit-sharing plan where the teachers shared with the district SEA incentive funds based on student performance). Private firms were highly-touted by the DeVos family, while such "profit-sharing plans" operated by the local teacher group were not.

Trump has called for a \$20 billion block grant program for a school choice initiative. Without a major economic crisis, as occurred during the Great Depression, unlike Obama who had at that time a justification for the major \$100 billion education "stimulus" funding in education,

Congress is not likely to approve anywhere near the proposed \$20 billion. Hence, attempts will be made by the new Administration [with strong opposition from school groups and civil rights advocates] to take as much Title I and other funding as possible under current and new ESSA legislative and regulatory policies away from public schools to fund charter schools. A number of steps could be taken, including boosting the power of and funding received by the “private school ombudsman offices” in each state created by ESSA, tweaking the “equitable services” provisions in Title I to ensure districts allocate more Title I funding from their regular Title I programs to those operated by private and charter schools. However, the amount of such funding at the most would be a half to \$1 billion. In addition, if the existing Continuing Resolution is carried over into March 2017, which is likely, then the Administration with the GOP-controlled Congress could increase by a factor of two or three funding for the existing Charter School Program, now funded at about \$300-\$400 million. Charter school advocate Governors could encourage new Title IV funds to be allocated to charter schools to improve “school climate.” School administrator groups will violently fight the Federal Title I funding flow into private schools, including charter schools. Opposition from the AFT and NEA will also increase dramatically. Professor Bruce Baker, veteran Title I funding expert, recently analyzed the impact of the increased school choice through charter schools on public school funding. The districts which will be hurt the most will be those with rapidly growing populations in which Title I allocations are generally two years behind in being allocated the amount needed to serve the increase in eligible students; generally these districts also do not have the “overhead” or “soft money” that larger districts with more stable Title I population have (see “Exploring the Consequences of Charter School Expansion in U.S. Cities” November 30, 2016 at <http://www.epi.org/publication/exploring-the-consequences-of-charter-school-expansion-in-u-s-cities/>).

Efforts to expand voucher-type programs will meet even greater resistance from both education administrators and teacher groups. Even the GOP Congress will likely oppose funding such vouchers (e.g., \$12,000 for Title I students to go to a school of choice) for two reasons: a) while GOP leadership supported a Title I voucher-type “portability” amendment during the ESSA debates, both Houses voted against its inclusion in the final ESSA; and b) Congress will oppose taking money from not only Title I but also from IDEA special education (about \$12 billion annually), as it has a track record of supporting funding for these two programs which goes to each congressional district.

Creation of new voucher programs are not nearly as likely as expansion of charter schools in the very near future. However, as Jack Jennings, key policymaker and influencer while staff director of the Education Committee for most of the five ESEA reauthorizations since 1968 and founder of the Center on Education Policy, is recently quoted in Education Week (December 5th) as saying, “Anyone who’s in favor of public education is going to have a fight and a half on their hands the next couple of years. The Republicans control everything, so it’s going to be difficult to stop them.” As Carolyn Phenicie of The 74, based in Washington, D.C., argues, vouchers could be expanded through a budget “reconciliation” that would occur early next year, which could bypass any Democratic Congressional resistance, which would address tax-related credits and deductions for individuals for scholarships, etc.; but as the article noted, “There are some

limits on budget reconciliation bills.” The Brookings Institute’s Elizabeth Mann addressed the prospects of DeVos’ school choice agenda and argued that since many of the Secretary of Education’s powers have been limited or prohibited under ESSA, any voucher strategy would have to rely heavily on the 30 or more GOP governors who support choice to take advantage of any Federal reconciliation bill which creates opportunities; they would also have to convince state legislatures to pass state law changes to implement such initiatives. The vast majority of state legislatures continue to be GOP controlled.

Without question, school choice will be the major issue discussed over the next year. One major implication for TechMIS subscribers is that if additional funding is not appropriated, Title I and special education administrators at the district level will postpone spending for new products until “uncertainties” begin to be removed. If, through various means noted above, additional Title I funding is allocated to support private charter schools, then some opportunities will exist in charter school expansion, particularly for those charters which offer technology-based or related solutions. Several news items have widely reported that the DeVos family not only operates charter schools in Michigan, but supports their use elsewhere, and allegedly has invested in some of the large K-12-focused so-called cyber charter schools. To the extent that some district school boards and/or executives decide to compete with private charter schools, opportunities to improve instructional programs in school-operated Title I or even district-operated public charter schools might also create such opportunities. As with other Trump initiatives (e.g., childcare, as noted below), the emphasis will be in providing increased access to charter schools and not to put into effect policies to improve the quality of instruction, which according to numerous recent media and evaluation reports, especially for online cyber charter schools, “has been dismal.”

While the incoming Trump Administration has treated special education policy with “benign neglect,” a questionnaire created by the Association of People With Disabilities sent to the President-elect’s transition team provided some insight to issues related to K-12 special education programs. As reported by Education Week’s On Special Education blog (November 9th) regarding ensuring that students with disabilities are exposed to “challenging academics,” the stated position of the Trump team indicated that the Federal government should have a minimal role in education and “The government should protect the civil rights of students with disabilities; there are civil rights mechanisms in place to adjust that reality such as Federal court rulings that disabled children have a right to free and appropriate education. The Federal government enforces that ruling and my administration will enforce it.” It should be noted the transition team has also suggested that the USED Office of Civil Rights initiatives in a number of areas under the Obama Administration should be withdrawn and transition team members have suggested that such an office should be placed in the Department of Justice as noted below. Under ESSA, the Secretary of Education’s enforcement capabilities are either prohibited or seriously reduced, except in the area of enforcement under existing civil rights laws. However, his response in the questionnaire did say that when special education students’ free and appropriate education rights are jeopardized and are not being properly carried out, “I will be open to ensuring that it is.” The team also did say it would be “willing to consider a cabinet-led taskforce on bullying.” The *On Special Education* blog also notes that the GOP-led Congress,

especially the likely new Chairman of the Education and Workforce Committee, Virginia Fox (NC), has stated that IDEA reauthorization is “a top priority,” which suggests some of the civil rights enforcement powers could be reduced in the new reauthorization.

The Trump priority for increasing the availability of childcare programs is through a combination of tax deductions and credits. As Christina Samuels, Education Week blogger (November 29th) stated “the childhood-advocacy community is still grappling with what a Trump Administration will mean for those policies and many others.” According to Education Week, while the original proposed tax changes would help mostly more affluent families, several elements have been added to help lower-income families:

- A childcare rebate to increase Earned Income Tax Credit for current non-taxpayers;
- A dependent care savings account which would include \$2,000 a year pretax and up to \$1,000 match from Federal agencies for lower-income families;
- Incentives for employers to allow six weeks of maternity leave; and
- A more favorable regulatory environment for family-based and community-based solutions” rather than “center-based care.”

While Vice President-elect Pence has a track record of supporting early childhood initiatives, the new nominee for DHHS Secretary, Congressman Tom Price, has in the past called for relinquishing Federal control over the national Head Start program and delegating those responsibilities to states. The impact of the new Administration on existing Federal childcare programs, including Preschool Development Grants and Head Start and other recent efforts to improve quality programs (e.g., by extending Head Start programs to a full-day rather than half-day) remains uncertain.

It is clear that the new Administration is more interested in providing greater access for more parents and children to a variety of options for childcare programs and to increase the numbers whereas, the outgoing Administration focused on increasing the quality of programs, particularly Head Start, which was also a major priority under Candidate Hilary Clinton.

The proposed dismantling of USED will not occur. When it was created, according to one of the key actors at that time, “We’ve put more than 175 political appointment positions in USED which the incoming Administration will want to fill with political types and supporters.” This is what Bill Clinton did initially, and then had to replace most of them six months later. Aside from perhaps a few seasoned high-level USED officials with some government/education policy experience, most of the new individuals filling other positions will bring little education experience and no “institutional memory.” Many of the seasoned “bureaucrats” operating major programs such as Title I and special education are likely to leave. This development will create additional uncertainty, slow down funding allocations to states, and thereby, postpone product purchasing at the district level. Conflicting guidance which will be developed during the early implementation process of any Trump initiatives will also create uncertainties.

While the Department per se will remain, the new Administration will likely “hamstring” the

major USED enforcement office over ESSA, which is the USED Office of Civil Rights. It is responsible for implementing old Civil Rights Laws going back to 1964 which enforce “equal education opportunity” for students. On one hand, the Office strongly supported by the civil rights advocacy groups could be transferred to the U.S. Department of Justice whose department designee, Senator Jeff Sessions, would be responsible for enforcing civil rights laws, including IDEA, Americans With Disabilities Act, and provisions in ESSA Title I. As Christina Samuels, Education Week (November 30th) reports, Sessions’ past and some recent comments have “angered” disability group advocates. Recent comments by the Senator were “not intended” to undermine the special education law (behavior of students with disabilities), but at the same time, he stated, “We need to say that a child is not allowed to commit crimes to disrupt classrooms, to curse teachers, principals, and students and abuse them and do so with impunity.”

On the other hand, if USED’s Office of Civil Rights remains at USED, it could be crippled by Congress. While the budget for the Office for Civil Rights was slightly over \$100 million in 2016, the Obama request for \$138 million to support an increase from almost 600 lawyers to over 750 is basically dead. On the other hand, the number of complaints filed at the Office have increased over the last six years from 7,000 to almost 11,000. As Education Week’s Politics K-12 blog (December 2nd) noted, “This has resulted in ‘pending’ cases increasing from about 300 to 1,300 ‘backlog’ which will certainly slow down the enforcement process.” As GOP Congressional leadership has argued, OCR enforcement of education statutes as a “civil rights law” has gone too far and the new Secretary could basically retrench enforcement of many policies by “looking the other way.” The major implication here is that if the Obama recent final regulations supported by civil rights groups remain intact, and during the first year of the Trump Administration are not changed, USED will continue to be prohibited under ESSA from many important enforcement functions and the Office of Civil Rights’ major leverage under civil rights laws will be lessened or “neglected.”

Implications

There are implications for TechMIS subscribers based upon new Trump priorities thus far. During the first few transition months, there would be more than normal “confusion” on policies and hence a general slowdown process, particularly regarding allocation of next year’s funding and some of the constraints placed upon it. While new voucher laws are not likely, most likely funding for charter schools will increase, particularly for those operated by for-profit companies. The increase will be general and most likely rather dramatically in such areas as online technology-supported delivery for rural districts where local regular choices do not now exist. While some new funding for existing Charter School Program may increase, more opportunities could be through Title I funding being siphoned to charter schools. Possibly a new “priority” in some states will be placed upon using some of the “technology” and “school climate” funding allocations of Title IV, funded at between \$700 million and \$1 billion. Other opportunities could be created in states as GOP governors increase “pressures” on charter schools to improve their quality of instruction, particularly for online charter schools.

Once again, funding and other uncertainties will delay purchasing cycles under Title I programs. However, remedial/developmental programs should continue to be in demand. The voucher

“movement” may receive some funding through tax and other changes, especially for alternative programs for students with disabilities (e.g., the McKay program in Florida). However, IDEA Federal funds are not likely to be otherwise “siphoned off” to support vouchers or charter schools or other means of increasing “parent choice.”

The focus of early childhood and childcare will be to increase the quantity of families’ access to such programs, not improving the quality of existing or new programs. Even though USED will generally remain intact, the use of existing Civil Rights laws to enforce current and new ESSA education provisions in the statute and Obama-proposed regulations, if they remain intact, will be significantly reduced or treated with “benign neglect.”

Special Report:
**USED Publishes Final “Accountability” Regulations With Some
Changes Providing Greater Flexibility to State and Local Educators,
Which Have Implications for Most TechMIS Subscribers**

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

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December 9, 2016

The USED published in the Federal Register November 29th final regulations on ESSA “Accountability,” with changes from the May 26th proposed draft addressed in our September TechMIS Special Report. In that report we focused on the regulations related to interventions that could be used in schools requiring “comprehensive support and improvement” (i.e., similar to SIG Priority schools) which would be in the bottom five percent of Title I schools, and schools with a relatively high percentage of a failing specific subgroup of students known as those so-called “targeted schools” (i.e., similar to SIG Focus schools); other draft regulations of interest to TechMIS subscribers were also addressed. This report provides an update on changes that were made in these same areas in the final regulations and identifies the implications for many TechMIS subscribers.

As we predicted last February, the deadlines for SEAs and LEAs to meet the new ESSA requirements related to “comprehensive” and “targeted” schools have been extended by one year so that lowest-performing schools can be identified as late as 2018-19 school year with implementation in 2019-20; they must identify schools requiring “targeted” support by 2019-20 school year. For many clients, as we have strongly suggested, the best opportunities are to work with districts to take advantage of flexibilities (see two April 27th TechMIS Special Reports) in existing NCLB regulations, most of which have been codified in the new ESSA. Prior SEA resistance will be minimal as a result of ESSA. This is particularly true when approaching Title I schoolwide programs, which constitute almost three-quarters of all Title I schools, including all existing Priority and Focus schools.

The final regulations also clarify that a state should notify each LEA of a school’s identification as “comprehensive” or “targeted” as soon as possible, but no later than the beginning of the school year. This is important because many districts under the old SIG regulations had to wait

until December or January in most cases before the states notified them which low-performing schools in their district, if any, qualified for SIG grants. This problem should be minimized now, especially for districts who wish to implement interventions before the extended deadlines, which has positive implications for TechMIS subscribers.

Another change relates districts' conduct of Needs Assessments; the resulting "needs" have to be included in the districts' "comprehensive school plans," and which identifies the types of interventions they will be developing or purchasing. The final regs require that the Needs Assessment include an examination of the school's unmet needs, including the unmet needs of "students, school leadership, and instructional staff; the quality of instructional program; family and community involvement; school climate; and distribution of resources..." Another change allows districts that conduct needs assessments "to include students, as appropriate, in the development of school improvement plans related to low participating rates and to identification of targeted supports and improvements."

In response to a large number of comments and requests made by LEAs, the final regulations also allow the needs assessment to "examine, at the LEA's discretions, the school's performance on additional, locally-selected indicators that are not included in the state system of meaningful differentiation under Section 200-18 and that affect student outcomes in the identified school." The final regs state that "an LEA may examine locally-selected measures." This change could have major implications for some TechMIS subscribers, especially when approaching Title I schoolwide programs. As we noted in the April 27, 2016 TechMIS Special Report on existing flexibilities in Title schoolwide programs, Title I funds can be used to develop and/or purchase any intervention which has been identified by the school through a Needs Assessment and is included in the schoolwide plan. This change requested by LEA administrators provides a huge opportunity for districts to use Title I funds to purchase any type of product that is determined to be needed in a Title I schoolwide. It behooves TechMIS firms that have interventions that improve student performance in areas other than those in originally-stated indicators in ESSA (e.g., math and reading, safety, school climate, etc.) to work with and otherwise participate in districts' needs assessment process. If anyone has any questions, call Charles Blaschke directly to discuss opportunities (703-362-4689).

Another important change in the final regulation attempts to clarify what has been a major concern to many TechMIS clients in the original SIG program and other activities allowing/requiring external providers and/or using evidence-based interventions on state lists or otherwise approved by states. The final regs attempt to "more clearly articulate distinctions between the optional state authorities for lists of state approved interventions and state-determined interventions...and their impact on evidence-based interventions used in school support and improvement plans." Specifically, in the case of an "exhaustive" list of interventions established by the state consistent with Section 200.23, LEAs must select interventions from that list, while in the case of a state establishing a "non-exhaustive" list, the intervention may be selected by the LEA from that list. In addition, for comprehensive support and improvement plans, "...the intervention may be one that is determined by the state consistent with State law."

Moreover, the change also states, “These revisions in no way alter an LEA or school’s discretion to choose an evidence-based intervention from those included on a state-established list, exhaustive or otherwise.”

The actual final regulations provide a number of examples of interventions which some TechMIS subscribers provide, including:

- interventions based on data from early warning indicator systems;
- strategies designed to increase diversity by attracting and retaining students from varying social economic, racial and ethnic backgrounds; and
- increasing access to high-quality preschool (in the case of an elementary school).

The guidance states that these examples are not exhaustive; however, it strongly suggests that any type of evidence-based intervention must “meet the definition of evidence-based under Section 8101 of the Act” (e.g., the four tiers with the fourth tier being the interventions which “offer promise” and are “under further evaluation”).

- The evidence on effectiveness, “to the extent practical,” was based upon serving a population or setting that overlaps with the population or setting of the school to be served;
- Are supported, “to the extent practical,” by the strongest level of evidence that is available and appropriate to meet the needs identified in the needs assessment...”

As we noted in our September TechMIS Special Report, the guidance also does not require that all of the interventions used in a “comprehensive” or “targeted” school have to be evidence-based, but rather only those used to address the specific needs identified for that school.

Numerous comments were concerned about what criteria must the school meet in order to exit from receiving “comprehensive” and “targeted” support designations. As the change states, “We have modified the language to specify that a state’s exit criteria must require that the school no longer meet the specific criteria under which the school was identified as a comprehensive support and improvement school.” However, if a school identified for comprehensive support or improvement does not meet exit criteria, the school “must implement one or more evidence-based interventions that are supported by strong or moderate evidence, but clarifies that the amended plan may also include other rigorous interventions that are not supported by strong or moderate evidence.”

In the context of increasing bipartisan congressional support to reduce the “school-to-prison-and-back” problems for juvenile offenders, particularly associated with smaller high schools, the final rules clarified that high schools “identified for comprehensive support and improvement based upon low graduation rate with a total enrollment of less than 100 students are the only high schools permitted to forgo implementation of improvement activities required by regulations.” The requirements regarding differentiated improvement activities are predominately for schools less than 100 enrollment that serve students: (1) who are returning to education after having exited (e.g., dropped out or expelled) secondary schools without a regular high school diploma; (2) who based upon their grade or age are significantly off-track to accumulate sufficient

academic credits to meet high school requirements.” As we noted in our TechMIS report on draft regulations in September, these smaller schools providing catch-up credit/recovery remedial programs or even some special education programs will likely increase the estimated 1000 to 2000 number of “dropout factories” since the current definition of such “factories” are with enrollments of 300 or more.

Other changes from the draft regulations in the recently-published final accountability rules include: a) relevant “other factors” beyond test scores, graduation rates, etc. that improve school or students quality and opportunities to learn can be used if they have a research basis indicating it contributes a positive impact on student learning, which is defined to include not only grades, but other measures such as persistence, college enrollment, among others; b) that states could use any “N” size but if it is 30 or more indicate the number of schools or subgroups that would be identified under an N size of 30 must be compared to the new “N” size number. Regarding the amount of time allowed to hold schools accountable for ELLs to become English proficient, the school has to justify the number of years based upon existing research and at the least show that schools are making “sufficient progress each year.”

While there is much opposition from Congressional leadership, particularly Chairman Senator Lamar Alexander, with USED draft regulations on “supplement-not-supplant,” the general reaction to the final accountability regulations is summed up in a recent headline in *Fritzwire*: “The nation’s governors, state education chiefs, and some advocacy groups appear ready to move forward with the education department’s final rule for holding schools accountability under Every Student Succeeds Act.” As the article notes, “Republican Senator Lamar Alexander said he would ‘carefully review’ the final rule. It is still unclear whether the rule will survive under a Trump Administration.” It would appear a deal has been made to allow accountability rules to stay intact while regulations drafted by USED are still being negotiated with the likely outcome that they will indeed be changed and/or removed under the Congressional Review Act, a 20-year-old law, which however, has never been used by Congressional leaders in their oversight function.

Washington Update

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New Best Evidence Synthesis Reaffirms Prior Controversial Study Findings that Black Children May Indeed Be “Underrepresented” in Special Education

As a follow-up to prior research and studies using the Early Childhood Longitudinal Study-Kindergarten data, researchers Paul Morgan and George Farkus have conducted a synthesis of 22 studies that compare enrollment of black students in special education to white students. Some of the studies were doctoral dissertations as well as peer-reviewed studies published in peer review journals. According to Education Week’s On Special Education blog (November 15th), “What they found is that studies showed over-representation of minorities in special education when those studies did not control for student-level academic information and when they relied on some source of student data that was not nationally representative. But, when studies did create those controls and used national samples, overrepresentation started to shift the other direction – in other words, academically struggling black students are less likely to be enrolled in special education than academically struggling white students.”

In an interview, one of the co-authors, Paul Morgan, commenting on “quick and dirty” observations looking only at enrollment numbers alone, stated, “It’s not that the observation is incorrect, it’s the inferences that are made about it.”

As we have reported over the last decade, the 2004 reauthorization of IDEA required districts with significant “disproportionality” or “overrepresentation” of minority students in special education programs to set aside up to 15% of IDEA funds to provide Coordinated Early Intervening Services (i.e., RTI) for at-risk students to prevent them, particularly minority students, from being placed in special education programs. This requirement bolstered an already growing “local grassroots” RTI movement a decade or so ago, which expanded from less than \$1 billion to almost \$4 billion a year. Under the Obama Administration, as described in our April 2015 TechMIS report, USED-proposed regulations, which would require states to go beyond at-risk students who were “behind” academically to include students which had been suspended or expelled and were placed in restrictive settings. Proposed regulations estimated that the number of districts identified for significant “disproportionality” or “overrepresentation” of minorities in special education (or expulsion) would increase by a factor of ten or more which would increase the amount of such funding under the 15% set-aside to increase by \$1-1.5 billion.

As the blog has noted, this study adds to the controversy of the original findings (a year ago) that were published shortly afterwards based on the meta-analysis conducted by Morgan and Farkus. A number of USED studies also reported that Response to Intervention (RTI) approaches were not as effective in improving student performance as some studies as anecdotal information

had suggested. Groups such as the National Center for Learning Disabilities and the RTI Network challenged the validity of the findings from the USED studies.

Conceivably, under the Trump Administration, the suggestion that minority representation in special education may be significantly less than what has been “observed” could dampen support for RTI. In short, this issue is certainly one that deserves serious and close monitoring which we plan to do.

USED Issues Non-Regulatory Guidance (NRG) on “Fiscal Guidance” and “Equitable Service Requirements” Affecting District Title I Allocation Adjustments and Amount of Funding Following Eligible Title I Students to Charter or Other Private Schools

The new NRG has the bottom line effect of increasing some uncertainty about how much Title I funds will be allocated from district-operated programs to private schools, which could extend purchasing cycles. However, several highlights and opportunities remain within districts’ funding allocations and thus creating purchasing opportunities for firms.

High Schools

On the more positive side, at “first flush,” the new ESSA provides for an exception for within district allocations of Title I funds in order to include more high schools as Title I schools and to provide the high schools greater flexibility. The poverty threshold that a high school must meet to receive Title I funds has been reduced from 75 percent poverty to 50 percent poverty. Under NCLB

evolving guidance, particularly since the increased funding for School Improvement Grants in 2009, USED guidance encouraged districts to identify for School Improvement Grants the five percent lowest-performing high schools. About half of the 2010-2013 SIG schools were high schools. Over time, the NCLB guidance allowed any SIG school to be designated as a schoolwide program, which provided much greater flexibility in how Title I funds could be used within the constraints of the four prescribed intervention models (e.g., transformation model). And then, toward the end of the Obama Administration, NRGs allowed districts to allocate Title I funds, particularly using the 4% SEA set-aside, to schools “having the greatest need,” bypassing some of the “rank order” requirements in the district Title I school selection process. Under the new ESSA statute, districts are allowed to “use feeder patterns to determine the poverty percentages of secondary schools.” This should increase the number of poverty students in high schools, as many Title I-eligible students decide not to participate in “free and reduced lunch” programs because of the “stigmatization” perception of high school students. The new requirements allow districts to estimate the number of poverty students by applying the average percentage of students from low-income families in elementary school attendance areas that feed into secondary schools to determine the number of low-income students enrolled in the secondary school which are Title I eligible. Also, secondary schools could include charter schools.

Equitable Services Funds to Increase

The NRG identifies detailed guidance on funding allocations and related requirements placed upon districts to ensure “equitable

services” are provided to private schools. This will become a major issue during the first year of the new Administration for debates and “tugs and pulls” between the Administration and school districts and other education groups (e.g., Title I coordinators). Some of the new requirements and changes were in the November 14th TechMIS issue, which details the context and reasons for some of the changes in the recently-published NRG.

Under ESSA, the newest requirement is the creation of an “ombudsman office” at the SEA level “to help ensure equitable services and other benefits for eligible private school children, teachers, and other educational personnel and families, an LEA must designate an ombudsman to monitor and enforce ESSA equitable service requirements under both Title I and Title III.” The SEA ombudsman oversees how Federal funds are disbursed to private schools to comply with “equitable services,” and if a district does not do so, the private schools can request that the SEA provide such services or funding directly. That office also notifies private schools of the amount of such funds LEAs are supposed to provide under the “equitable services” requirement. The new ESSA also requires that the district uses entire Title I allocation, before putting title funds in the reserve “off the top” to determine the amount of funding for equitable services that are to be transferred to private schools. Examples of services, which the ombudsman office could provide, range from monitoring the funds distribution to ensuring appropriate consultation with private schools is conducted by LEAs to enforcement and resolution of complaints “in a fair and impartial manner.”

Another new requirement is that funds allocated to an LEA to provide “equitable funding and services” must be obligated in the fiscal year in which the funds are received and not carried over, which would thus postpone the amount of funds private schools receive. In addition, the new ESSA also requires states provide services and funding to private schools when an LEA has not met equitable service requirements.

Transferability of Funds From One Title to Another

The new ESSA amended the “transferability” authority in NCLB by changing the programs from and to which an SEA or LEA may transfer funds and removing limits on the amount of funds that may be transferred. Under the new guidance, the funds from which an SEA may transfer funds for state allocated state-level activities include Title II Part A (Supporting Effective Instruction), Title IV Part A (Student Support and Academic Enrichment Grants), and Title IV Part B (21st Century Community Learning Centers). Some of the titles to which an SEA may transfer funds include:

- Title I Part A (Improving Basic Programs), Title I Part C (Migratory Children), Title I Part D (Neglected Delinquent Program)
- Title II Part A (Supporting Effective Instruction)
- Title III Part A (English Language Acquisition and Language Enhancement)
- Title IV Part A (Student Support and Academic Enrichment Consolidated Grant), Title IV Part B (21st Century Community Learning Centers)
- Title V Part B (Rural Education)

Once an LEA received funding from the SEA under different Titles, the LEA may transfer funds from:

- Title II Part A
- Title IV Part A

The funds transferred from the above programs can be transferred into all of the other programs to which SEAs can transfer funds noted immediately above.

Another change would do away with the limit on the amount of funds that an LEA may transfer. Moreover, the amount of funds transferred to a Title which must provide “equitable services” are subject to the “equitable services” requirements under, for example, Title I. And, an SEA or LEA cannot transfer funds that can be used for only equitable services to private schools or teachers. It is obvious that the “equitable services” provisions, if implemented, as “required,” would benefit private schools as more funds generally would be allocated to private schools while reducing the level of funding per Title I remaining for the district to use.

This NRG could be one of the sets of regulations that the new Administration may attempt to bolster and provide changes in favor of private schools, including charter schools which are serving eligible students from a school district attendance area.

Professional Development & ELL Trends Reveal Service Providers Must Understand State-level Frameworks and Certifications

An examination of recent RFPs from districts around the country seeking professional development for teachers of English Language Learners (ELLs) reveals

several notable trends for service providers.

The most significant, sweeping change in recent RFPs is a focus on state-specific components that vendors must understand and address in order to successfully bid for services. This trend reflects the broader, ESSA-fueled shift of decision-making from the federal level to the state level. It will require increased attentiveness by service providers to understand state-specific frameworks, standards, and certifications.

Trends identified in recent RFPs include the following key findings.

Alignment to Literacy Framework

Professional development must align to a Balanced Literacy Framework or a state-specific Literacy Framework. These frameworks vary, but typically include models of independent reading, small-group reading, and entire class read-alouds. Frameworks often include the expansion of vocabulary acquisition, writing work, and reading for comprehension. Scaffolds and differentiated instruction are also key components.

Research-based, Standards-aligned

Many RFPs indicate the need for research-based strategies at the center of professional development. Most also request that strategies are aligned to standards, either state standards or the Common Core State Standards (CCSS). With 13 states (as of November 2016) choosing not to adopt the CCSS or to rewrite major components of it, bidders must be knowledgeable about specific state standards.

Linking English literacy skills with Content Subjects

Many RFPs specifically request professional

development focused on linking English literacy skills and content knowledge, so that content subjects are more accessible to ELLs. Service providers should be prepared to model methods for increasing an ELL's academic vocabulary. This is particularly true in California as a result of new state "adoptions" requirement.

Assessments & Effectiveness

Professional development should include strategies for collecting student data and then interpreting that data. In addition, several RFPs request a post-training Classroom Walkthrough session or instrument to gauge effectiveness of the teacher's new strategies in the classroom in a more objective manner than "opinions."

Culturally Responsive Climate

Several RFPs reference the need for professional development to reflect culturally responsive ways of interaction and communication in the classroom climate. Providers that understand how to model and share strategies that reflect culturally responsive communication will have a leg up on the competition in many RFPs.

Familiarity with Certifications for ELL

Most RFPs require familiarity with or alignment to certifications that exist for ELL teachers. These certifications vary widely and are often state-specific. For example, RFPs in these various states request professional development by providers who are familiar with these certifications or endorsements:

- Sheltered English Immersion (SEI) endorsement in MA;
- Structured English Immersion (SEI) certification in AZ;

- Academic Language and Content Achievement (ALCA) certificate in NV; and
- Cross-cultural Language and Academic Development (CLAD) certificate in CA.

Variety of Formats for PD

RFPs for professional development to support ELLs often indicate the desire for a variety of formats for services, including:

- On-site training;
- Embedded coaching in the classroom; and
- Ongoing support and follow up (both in person and virtually).

The trends listed above will likely mean a significant investment of time by TechMIS subscribers who are providers of professional development for ELL teachers and instructional staff service providers to understand state-specific components prior to bidding for an RFP. Service providers should advise sales staff of the growing importance of understanding each state's frameworks, certifications, and standards in order to stay competitive in the ELL professional development arena.

New Report Offers Insights into Reading In the Digital Age

In Education Week's November 2016, SPECIAL REPORT: THE CHANGING FACE OF LITERACY, authors summarize some of the key issues facing educators as they consider the basics of this topic. These include: What is digital literacy? How should reading be taught in this environment? and What are some of the differences in consuming and comprehending information through digital

media? The Education Week report explores these questions and examines how the availability and nature of technology are changing, or not, p-K to 12 reading education.

What is digital literacy?

It's not a surprise that definitions of digital literacy vary. The American Library Association's task force offers this definition: "Digital literacy is the ability to use information and communication technologies to find, evaluate, create, and communicate information, requiring both cognitive and technical skills."

In the Education Week report, Hiller Spires, a professor of literacy and technology at North Carolina State University offers these categories to describe the scope of digital literacy: "(1) finding and consuming digital content; (2) creating digital content; and (3) communicating and sharing it."

In text formats there may not be much difference in *consuming* a story using electronic media, such as an e-reader when compared with reading a story in print; however, different skills are required in efforts to *find* the story or information electronically compared with the traditional way of using the classroom or school repository of printed materials to find the story. The vastness of the electronic media landscape makes understanding the organization of resources and likely search strategies essential to effective and efficient access in the finding and consuming category of digital media.

Once information is located online the actual comprehension of the material may include other challenges for the reader. For example, when the text is peppered with

links to related information and other not-so-relevant articles, it can become a struggle for the neophyte user to maintain attention to the primary information topic and the assignment at hand. This may be why some research suggests that students struggle more with comprehension on digital devices than print.

In addition to managing distractions with online texts and other Internet-delivered information it may also be difficult to determine the accuracy and veracity of what's presented to the student consuming the material. Educators need to develop strategies that intentionally focus attention on how to evaluate the wealth of information available. Just because it's on the Internet doesn't necessarily mean it is factual or has merit and relevance!

Whatever the definition, experts do agree that even the youngest children need to learn using a mix of print and other media including reading on an e-reader, accessing websites, creating and sharing through videos, blogs, email and other media rich communication formats.

How should reading be taught in this environment?

Data from the most recent National Assessment of Educational Progress (NAEP, 2015) indicate that only about ten percent of fourth graders use computers to access reading related websites on a daily basis or nearly every day at school. Thirty percent of students in fourth-grade classrooms never or hardly ever use computers to access such reading material in school. Unfortunately, this overall lack of access precludes widespread use by educators as integral to their teaching.

Furthermore, many elementary teachers still do not have the comfort level with technology necessary to offer positive role models for the technical skills needed to effectively access digital media and the Internet. The fact that most apps would be considered enhanced worksheets where student practice skills in isolation rather than integrated pieces of the larger reading skill constellation, does not encourage teachers with limited tech skills to access and use digital media in a more integrated way to support classroom reading instruction.

Due to the vast availability of Internet and digital media options teachers may be challenged in finding appropriate resources and information that address the classroom curricula; there are some down-sides in having students use search features that are often return overwhelming options, many of which may be “off-limits” and expose students to privacy concerns.

What are some of the differences in consuming and comprehending information through digital media?

As with any innovations in education there are pros and cons when considering the use and impact of these. Below are several examples of the issues that emerge when reading and digital media intersect:

Non-linear nature of digital formats, which are often hyperlinked and networked, can pose challenges, especially for those students who have difficulty focusing; on the other hand, digital media can offer opportunities for individualization and interactivity that may not be available when reading print on paper

The continually evolving nature of technology devices and software may be a

challenge for less-tech savvy teachers to take the risks necessary to try new apps and/or digital devices.

Finally, the Common Core State Standards may include some references to digital media; however, these are certainly not central to achieving and implementing the standards, so with respect to employing digital media teachers are mostly following their own *drummers*. For now, there's no consensus on exactly how digital skills should be incorporated into literacy instruction. Practitioners have few guidelines, and many are simply adapting their lessons as they see fit; basically, they fall back and rely on the way they were taught—without access to digital media and the internet.

TechMIS subscribers with reading curriculum offerings with integrated digital media and/or online activities should emphasize that their uses of technology are appropriate to the learning outcomes. Also, since apparently educators continue to need to improve and enhance their tech skills and their comfort using digital media, professional development remains a mainstay of any media-enhanced literacy curriculum. To accommodate the variety of needs for support professional development, clients need to offer educators options that can scaffold their progress including face-to-face, self-paced modules, online delivery, and ongoing communities of practice. Such options need to specifically address effective use of the media integrated within the reading curriculum.

US Report Card on Physical Activity for Children and Youth Shows Dismal State of Physical Activity and Offers Recommendations for Meeting the Minimum Target of 60 Minutes of Moderate to Vigorous Activity Per Week

In a recent article from *Education Week's Schooled in Sports* Blog (November 16th), Bryan Toporek reported that the World Health Organization and US Dept of Health and Human Services recommend that “children participate in 60 minutes of daily moderate-to-vigorous physical activity, such as running or swimming, along with vigorous-intensity activity at least three days per week,” and this level of physical activity is far from being achieved by three-fourths of US children.

The latest available national report, The 2016 US Report Card on Physical Activity for Children and Youth, includes the most up-to-date physical-activity data available from the 2005-06 National Health and Nutrition Examination Survey. These new analyses indicate that slightly over 20 percent of children between the ages of 6 and 19 met the criterion of at least 60 minutes of moderate to vigorous physical activity at least five days a week. The analysis of data by gender is, as expected, found more boys (26.0 percent) meeting the recommendations than girls (16.9 percent), but as children grow older, there's a significant decline in physical activity across genders. According to the analyses of gender by age groups, the levels of physical activity plunged sharply for boys (11.7 percent) and girls (3.0 percent) between the ages of 12 and 15, and then dropped even further for boys (7.3 percent) and girls (2.8

percent) for youth between the ages of 16—19.

Other measures of children's health were assessed in the report including the daily dose of screen time with recommendations for children ages two to five of not more than two hours daily, echoing those of the American Academy of Pediatrics.

As far as how children and youth get to school, which could be a source of physical activity, the report card also gave below-average grades to active transportation. For children ages five to 14 only 12.7 percent usually walk or bike to school; and roughly half of high schoolers attend at least one physical education class per week.

Russell Pate, chairman of the National Physical Activity Plan Alliance Board of Directors, aptly summarized, “The results of this new Report Card demonstrate that we have much to do to ensure that our children become active, fit and healthy adults. The National Physical Activity Plan lays out a strategy for increasing the physical activity level of all segments of our population, children and youth included. We call on parents, school personnel and community leaders to review the Plan and make the changes that will enable many more of our young people to meet national physical activity guidelines.”

The dramatic headline, “Three-Fourths of U.S. Children Aren't Meeting Physical-Activity Guidelines,” may offer an impetus for some TechMIS clients to work with school officials at all levels to examine new ways to address opportunities for increased physical activity during school time and thereby expand the market for after-school products and physical education-focused

professional development and training for teachers and those in after-school care programs.

Read the entire 2016 US Report Card on Physical Activity for Children and Youth from the National Physical Activity Plan Alliance here: http://www.physicalactivityplan.org/reportcard/2016FINAL_USReportCard.pdf

Deportations Could Affect District Allocations of Title I Funds

The Trump Administration's hardline position on deportation of undocumented immigrants at a general level could have a significant indirect impact on Title I funding received for districts, which serve relatively large numbers of children of the estimated 2 to 3 million undocumented workers. During the Bush Administration, when threats of deportation occurred a decade ago, the number of "reported" Title I eligible children from undocumented worker families dropped, resulting in lower numbers of Title I eligible students being "counted," thereby reducing formula funding to those districts. In some cases, the impact was due to undocumented workers not making themselves available for "Census takers," which impacted district funding two years later. During that time period, threats of deportation were at their highest level in large urban districts, including Los Angeles and Miami Dade County, among others, which had their Title I budgets cut significantly.

In light of the current deportation threats in the Trump position, the Los Angeles Unified School District passed a school board resolution which would not allow Federal

immigrant agents on school grounds unless prior permission is gained from the superintendent or the district lawyers, as reported in the Los Angeles Times. An earlier resolution in February made the district a "safe zone." A top California official argued that Trump's vow to deport up to three million immigrants "will almost certainly include students, not just criminals."

In addition to the impact on K-12 Title I funding, high-level officials from colleges across the country have expressed serious concerns that the Trump Administration will attempt to overturn the Obama Deferred Action for Children Arrivals (DACA) executive order. Children of undocumented immigrants arriving after 2007 at age 16 or younger can receive two-year work permits and exemptions from deportation.

According to Education Week, mayors of Chicago, New York City, and San Francisco have also promised to fight Federal efforts under a Trump Administration. As reported in the article, cities that are designated as "sanctuary cities" were pledged by the Trump campaign to be denied Federal funds.

Research Informed-Report Recommends Strategies to Districts and Others for Outreach to Hispanic Communities

This report provides Nonprofits, Policymakers, and Funders the compelling rationale for a focus on Hispanic communities. Large districts with high percentages of Hispanic families and children need special, targeted efforts to communicate effectively with their Latino constituents. TechMIS subscribers that work

with districts, which are involved in outreach efforts to the Hispanic communities with children enrolled in the public schools can benefit from sharing many of the strategies offered in this research-informed communication Guide with their district level contacts.

The Hispanic population represents the United States' largest, and youngest, minority group. The Hispanic population in the United States has grown from 4.4 percent of the national total in the 1970 Census to 17.6 percent in 2016.^{1,2} It now represents the nation's largest, and youngest, minority group. Nearly one third (32 percent) of the Latino population is under 18 years old, and almost half (47 percent) of U.S. born Hispanics are younger than 18. Currently, one quarter of children in the United States are Hispanic, and demographers predict that by 2050, one third of all U.S. children will be Latino. Two thirds of Hispanic children also live in or near poverty; their well-being has important implications for the future of the country. One out of four children in the United States is Hispanic. And 90 percent of Latino children in the country are U.S. citizens. By the year 2050, one out of three children and over 30 percent of the U.S. population will be of Hispanic heritage. These young children today will constitute a significant segment of the country's future. But they and their families face serious challenges, and two thirds of them live in or near poverty. It is clear, but not widely recognized, that their education and well-being will have a profound impact not only on their communities, but on the country as a whole.

The recommendations within the guide are national in scope, as the sample of Hispanic

communities included in the data collection efforts are representative of the overall Latino population across the U.S. The guide is based on original qualitative research with multiple Hispanic communities in the United States, and on insights gathered from a review of available research literature covering:

- The history of Hispanic-origin populations in the United States, including the evolution of the terminology used to describe these communities;
- Hispanics' media and technology use, particularly their preferred sources of information and entertainment, the messaging channels they have access to, and the integration of their language and culture into these channels; and
- Hispanics' use of services within their communities, and culturally sensitive practices that facilitate the use of services.

The guide incorporates findings from the literature review, focus group data, and provider interviews. The guide is meant to help providers as they develop their organizational communication strategies and outreach materials. The foundational research presented in the report illustrates best practices for working with Latino communities. These are presented at each step of the communication framework depicted below.

TechMIS subscribers, who have products that address diversity and are specific to DLL populations can assist their school districts by recommending a simple five-step process that is fundamental to effective communication with Hispanic parents and families. The report authors identify a step-

by-step process for developing an effective communication plan and outreach activities proven to be successful in engaging with Hispanic communities. These include:

Step #1 when developing a communication strategy is to identify the target audience or audiences and set outreach objectives. Together, the target audience and strategic objectives form the foundation of any outreach and engagement plan.

Step #2 create the message or messages to be communicated to target audience. The messages will be based on outreach objectives and tailored to attract and engage a specific audience. Each message should inform and/or inspire action by the intended audience.

Step #3 pull together the components of the outreach strategy, and includes timing the delivery of the message, coordinating communication efforts with the organization's program calendar, and identifying external and in-house resources. Just as important as the messages to be communicated are the language(s) and cultural elements used to deliver messages. The guide provides a road map that can help clients advise districts how to select the most appropriate communication channels for reaching and engaging the Hispanic communities.

Step #4 is tactical execution, which includes developing materials such as brochures, website and social media content, and scripts for public service announcements and/or radio interviews, and then using these communication vehicles to powerfully deliver the message to the target audience. The guide offers insights into cultural issues

that can be addressed in marketing and resource materials.

Step #5 will be to develop the data collection and analysis plan so that it can gauge the impact of the outreach strategies, and analyze results to refine them accordingly. Data analysis will permit updating what is known about the audience and determine which channel and what messages brought them to the organization. Effective data collection and analysis require that the responses to each outreach component are tracked. It is important to identify the measures of communication success, or metrics, when objectives are developed.

TechMIS clients with products that address diverse parents and families, school readiness, and parent and family engagement will want share with their key districts the findings in this report, and will benefit from applying the recommendations to their development and marketing activities. The guide is designed for those whose work impacts the Hispanic community, including school districts and community agencies.

Access the executive summary and entire report, [Reaching and Engaging with Hispanic Communities: A Research-Informed Communication Guide for Nonprofits, Policymakers, and Funders](http://www.childtrends.org/wp-content/uploads/2016/09/2016-51LatinoCommunicationsGuide.pdf) by Alicia Torres, PhD, Luz Guerra, MA, Selma Caal, PhD, and Weilin Li, PhD at this url <http://www.childtrends.org/wp-content/uploads/2016/09/2016-51LatinoCommunicationsGuide.pdf>