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MEMORANDUM

DATE: May 24, 2016
TO: TechMIS Subscribers
FROM: Charles Blaschke and Dr. Suzanne Thouvenelle
SUBJ: Good District Prospects for Using RTI; Regulatory Updates on Supplement-Not-Supplant and Assessment; New ESSA Direct Student Services Set-Aside Opportunities; New Education in Innovation Research Initiative Allows For-Profit Participation; Existing Opportunities in Getting Stakeholder Input; Inclusion of Alternative, Charter, and Virtual Schools for ESSA School Turnaround Funding; and New Office of Civil Rights Priorities to Enforce Selected Niche Market Requirements

The first Special Report updates supplement-not-supplant (SNS) rulemaking progress. The bipartisan Congressional Research Service's new report argues that USED's version of proposed SNS regulations goes beyond "plain language" test and it violates ESSA prohibitions placed upon USED, thus siding with Chairman Lamar Alexander and GOP sponsors who threaten certain actions if USED does not comply. The final compromise (i.e., actual dollars versus "comparable" resources) should affect the amount of state and local funds actually allocated to many Title I schools, but will not likely affect the new SNS "flexibilities" in using the funds; the law provides opportunities for many TechMIS clients, as described in the April TechMIS Special Reports.

The second Special Report identifies districts representing best prospects for purchasing Coordinated Early Intervening Services/Response-to-Intervention (CEIS/RTI) products and/or services. About 500 districts were identified for "disproportionality" (overrepresentation of minorities in special education) in 2013 and the districts were required to allocate the maximum 15 percent set-aside from IDEA for CEIS/RTI to serve at-risk students not yet placed in special education programs. The influential IDEA MoneyWatch group also identified more than 1,400 additional districts, which set aside some IDEA and mostly other funds (e.g., Title I, local funds, etc.) on a voluntary basis, evidently because the vast majority of these districts felt RTI approaches were effective during the previous years, even though they were not required to set aside the IDEA funds. If the new USED proposed regulations on "disproportionality" go into effect, the number of districts required to set aside IDEA funds for "significant

disproportionality” in specific categories could increase to more than 8,000 districts.

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New GradNation Report Finds More Than 50% of Low-Graduation-Rate High Schools Are Alternative, Charter, and Virtual Schools and Recommends States:
 - Include These Low-Graduation-Rate Schools in New ESSA State Accountability and Improvement Systems; and
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Pressures Mount from Several Quarters to Increase Stakeholder Involvement in Planning ESSA Implementation at the State and Local Level, Which in Turn Could Be the First Level of “Complaints” Filed During Actual ESSA Implementation Leading to Enforcement Under Existing Civil Rights Laws Requiring Equal Education Opportunity

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USED Office for Civil Rights’ New Priorities Suggest Expanded Opportunities in Niche Markets Serving At-Risk Youth and Juvenile Offenders

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A number of miscellaneous items are also addressed including:

- a) Special education “counts” begin to increase after a decade of decline. Using state reported child count data submitted to USED, an Education Week analysis found that in 2014-15 about 5.83 billion students were served in special education programs, which is a slight increase from 5.67 million in 2012.
- b) A new report found only two state education agencies require a recommended amount of time for physical education, and just 15 states have additional funding available for physical education programs.
- c) During the recent Arizona State University GSV Summit, Bill Gates argued that education technology is at its earliest stages and as a result hasn’t “changed students’ academic outcomes.”
- d) The priorities in the final grant competition for Investing In Innovation Funds (i³) will be college and career readiness, improving school climate, and non-cognitive activities, which contribute to academic achievement.
- e) The high demand for STEM-related activities, particularly related to technology and engineering in rural after-school programs, suggest opportunities for firms with appropriate products and services.

Special Report:
Non-Partisan Congressional Research Service (CRS) Rules that USED
Exceeded its Statutory Authority in the Proposed
ESSA Supplement-Not-Supplant Regulations Based Upon
a “Plain Language Reading of the Statute” and its Legal Analysis;
New Flexibilities Remain

A Technology Monitoring and Information Service (TechMIS)
Special Report

Prepared by:
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May 24, 2016

The CRS has concluded that USED interpretation of the new supplement-not-supplant (SNS) provisions in ESSA, which was proposed during the final session of the negotiated rulemaking process, exceeds the “plain language” reading in the statute and USED violates ESSA’s prohibited authority in the current version of draft SNS regulations. In addition, the proposed regulations would also violate the existing ESEA “comparability” requirements, which the ESSA statute clearly stated should not be changed. As we have reported, the issue whether actual versus comparable teacher salaries should be used in determining equitable allocation of resources between non-Title I and Title I schools and whether actual per-pupil expenditures should be used have significant implications regarding the burdens placed upon states and districts; and its resolution could affect the amount of actual state and local funds a Title I school gets, as noted in the March TechMIS Special Report. Moreover, as civil rights and related advocacy groups (e.g., CAP) argue, the current USED proposed SNS regulations (i.e., using actual expenditures) would likely result in more dollars being allocated to Title I schools than under existing “comparability” and existing ESEA SNS regulations. However, the increased ESSA flexibilities provided to districts in the ESSA statute, which in turn would create expanded opportunities for many TechMIS subscribers and other groups selling products and services to districts, which use Title I funds to pay for them, would still remain. As we have argued in most cases the ESSA flexibilities would still create an environment at the state level more conducive to SEAs allowing districts to take advantage of existing flexibilities under NCLB now, as emphasized in our two April TechMIS Special Reports.

The CRS report and its findings support positions taken by Chairman Lamar Alexander and other key ESSA GOP authors/sponsors and district- and state-level officials, who participated in the negotiated rulemaking process. The USED response to the CRS findings reported in Education

Week's Politics K-12 blog update (May 11th) was: "As the Department has been reminded by over 30 civil rights groups, 600 teachers, and nine U.S. senators, the entire purpose of the Title I funds is to truly provide the additional resources necessary to ensure that students in high-poverty schools have access to equitable education opportunities. If schools are being short-changed before the Federal dollars arrive, then those dollars are not supplemental." The decades-old political battle over Federal funding for education arises once again between supporting "categorical aid" versus "general aid." Some of the specific findings as reported in the CRS report are stated below and will likely be reiterated in future debates until the SNS regulations are finalized.

As we reported in the April TechMIS Special Report and confirmed by CRS, essentially the ESSA "applied to all Title I-A schools, SNS provisions that are similar to those that are currently applied to schoolwide programs. More specifically, the ESSA added statutory language specifying that LEAs are not required to identify that an individual cost or service supported with Title I funds is supplemental."

While the new ESSA does not establish any standard or requirement for the methodology used by districts to allocate resources among the two types of schools, the CRS concluded: "For SNS purposes, this provision appears to clarify that per-pupil expenditures in Title I-A schools do not have to be equal to the per-pupil expenditures in a non-Title I-A school." Citing the ESSA language, "Nothing in this Title shall be construed to mandate equalized spending per-pupil for a state local education agency or school," the CRS argues that the USED proposed draft "appears to directly conflict with this statutory language which seems to place clear limits on ED's authority."

On May 11th, Senator Lamar Alexander in a floor speech argued, "A new report by the CRS says that the proposed supplement-not-supplant regulation goes beyond a plain language reading of the statute and is likely to be against the law... There is no question this regulation would violate both the letter and intent of the law and it must be abandoned... Congress and the Administration promised to reduce the Federal law and restore local control and we will use every available tool to ensure that promise is kept." Reiterating the consequential impacts upon districts (e.g., costly overhaul of most states' finance systems totaling almost \$4 billion), he reminded USED of several possible Congressional actions including:

- getting a majority Senate vote under the Congressional Review Act to overturn the rule;
- threatening withholding USED funding through the appropriations process;
- encouraging states to develop their own rules in their state plan, which if USED disapproves, the state would sue USED.

Unless the GOP Congress and USED negotiate a satisfactory settlement, the SNS regulations final publication could be postponed further beyond the December 10, 2017, earliest implementation date, which could affect the overall ESSA implementation schedule, and is one reason TechMIS clients should take advantage of opportunities during the "transitions" period beginning now!!

**Special Report:
New IDEA MoneyWatch Report Identifies Almost 500 LEAs
Which Were Required to Set-Aside 15% for
Coordinated Early Intervening Services (CEIS)/
Response-to-Intervention (RTI), Totaling \$240 Million in 2012-13;
The Estimated Number of LEAs Required to Set Aside Some of the
15% IDEA Amount Under USED-Proposed Regulations
Would Increase to More Than 8,000**

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

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Using the most recent USED state-reported data on districts having “significant disproportionality” (e.g., over representation of minorities in special education categories), the influential IDEA MoneyWatch reports that in 2012-13 “a total of 489 LEAs in 28 states were required to use 15 percent of Part B funds for CEIS due to significant disproportionality. The reserved funds to be spent total \$239.6 million.” In 23 states, no LEAs were required as having significant disproportionality, due in large part to the fact that the states had “varied definitions” used to identify significant disproportionality. As the report notes, “This inconsistent methodology is addressed in the proposed new Federal regulation published in the Federal Register on March 22, 2016...Comments on the proposed rule can be submitted on or before May 16, 2016” (see March TechMIS issue). Indeed, at the top of the agenda during the Council of Great City Schools legislative conference on March 21st, Assistant Secretary for Special Education and Rehabilitation Services, Michael Yudin, and USED Director of OSEP Ruth Ryder solicited comments from the large district attendees on the proposed regulations briefly described in our March 29 TechMIS Special Report.

The bottom line for most TechMIS subscribers whose products include interventions which can be used in CEIS/RTI approaches is to focus on districts, which were required to set aside the 15% reserve in 2012-13; these offer “good prospects” for targeting now (see Exhibit A). Most of the 489 districts in this link were identified for having significant disproportionality in 2010-11 or 2011-12, and have a record of extensive use of CEIS/RTI approaches.

In addition to those districts required to set aside the 15% of IDEA funds for CEIS, we identified in the April 2015 TechMIS Special Report an additional 1,243 districts who were not required to set aside the 15%, but voluntarily used IDEA and other funds (e.g., Title I and local funds) to implement CEIS/RTI approaches (see Exhibit B). These districts also represent potential good prospects to target. In 2011-12, 1,265 districts allocated such on a voluntary basis. Obviously, the LEAs which are using some portion of their IDEA Part B funds for CEIS/RTI and/or other state and local funds identified in the link above feel such approaches are effective.

A second bottom line opportunity is the projected 16-fold increase in the number of LEAs identified for “significant disproportionality” under the proposed uniform definition and other provisions in the proposed regulations could increase the total amount of the IDEA 15% set-aside for CEIS/RTI funding to \$2 billion or more. Our estimates, based upon previous surveys and growth trends, of what has been mostly a grassroots RTI movement, is that annual expenditures on RTI approaches from IDEA and now mostly other sources, such as Title I and state and local funds, was about \$4 billion last year, up from the half billion a decade ago.

The proposed regulations also expand the allowable types of interventions that the 15% set-aside funds can be used to pay for, including behavioral and social and emotional learning (SEL) interventions to be used for students who have a high risk of suspension or expulsion from school. Perhaps most critically, the proposed regulations attempt to reduce resistance from district special education officials to allocate the 15% set-aside of IDEA funds to other district offices by allowing part of the 15% set-aside to also be used to provide CEIS/RTI approaches and components to students already placed in special education.

As we noted in the March 29 TechMIS report, SEA opposition to a “uniform definition” in the related proposed regulations regarding “significant disproportionality” will likely be opposed by some states, particularly those currently not having to report any such districts because of “loose definitions” for disproportionality. However, some of the other provisions may be promulgated by this Administration before it leaves office, and if not enforced under IDEA, could be enforced under current civil rights laws.

Another possible reason that some states will oppose the proposed regulations, which would expand required use of CEIS/RTI, could be the recently published USED evaluation of RTI released last November, which was covered in Education Week’s “interpretation” article entitled “Study: RTI Falls Short of Promise” (see *Inside Research* blog January 11, 2016). In January, the RTI Action Network, which is “dedicated to evidence-based RTI/MTSS implemented with fidelity,” argued that the USED evaluation report and its interpretation by Education Week “did not assess the quality of the interventions used nor fidelity with which the interventions were used.” The RTI Action Network also posted critiques of the study including:

- “The report should be interpreted as a study of RTI practices, not RTI outcomes;
- The students ([in the study] are typically not the primary focus nor intent of RTI efforts;
- RTI interventions detailed in the report supplanted sizable portions of core instruction for most students rather than being supplemental.”

The RTI Network’s general conclusion is that the “results of this report should be interpreted more as an indictment of the difficulty of high fidelity education improvement implementation like other education reforms, and not be used to discourage RTI efforts.” As we have noted on several occasions over the last decade and a half, the U.S. Department of Education and its contractors, particularly those founded by individuals with strong political leanings and positions in the Department of Education, have a tendency to produce evaluation results of education technology interventions which were often premature and failed to take into account fidelity of implementation.

Washington Update

Vol. 21, No. 5, May 24, 2016

For the Most Part, the “Negotiated Rulemaking” Team Agreed With the USED Revised Draft Regulations for Assessments Even Though Key Points of Disagreement Are Delegated to States to Decide; “Tentative” Assessment Agreements with Implications for Some TechMIS Subscribers Are Highlighted Below

Even though the negotiated rulemaking meetings failed to arrive at a consensus on supplement-not-supplant USED draft agreement, the revised draft USED proposed regulations for assessment reached consensus on most areas with several provisions delegated to states to decide. Final assessment regulations will be proposed shortly; those items mentioned below have implications for most TechMIS subscribers.

The testing regiment for NCLB by subjects/grade levels would remain in place, with several twists. Assessment results will be reported by subgroups now including homeless students, foster kid students, and military family students receiving instruction in DoD schools or other agencies. If states conduct assessments in subjects beyond math, English/language arts, and science such as writing, these tests now have to be aligned to state standards. Eighth-grade students who take advanced math classes can take advanced level tests with accommodations being provided for students with disabilities and English language learners, and all students in the eighth-grade who do not have to take the

eighth-grade regular assessments will have to be given the opportunity to take the advanced level test, as noted by Education Week’s Politics K-12 blog (April 21st). With these provisions and exceptions, opportunities for targeting more individual subgroups of students arise for some TechMIS subscribers.

Similar to what was proposed three years ago by then Senate HELP Committee Chairman Tom Harkin, the state assessments used for accountability do not have to be one summative test provided at the end of the year, but may include a number of interim tests, which for certain groups of students, if approved by the state and approved by a peer review process, could include formative assessments and/or embedded items from formative assessments in publishers’ instructional curriculum/materials total solutions.

Computer adaptive testing will be allowed for states which wish to use them online in lieu of traditional written tests. The students grade level in which he or she is enrolled must be stated, but the level of the test could be below the grade level. The use of computer-adapted testing and out-of-level assessments were proposed in certain states such as Oregon, among others, during the early NCLB era and were initially turned down by the Bush Administration without exception. However, several exceptions were provided later during the Obama/Duncan era through the use of waivers. Computer-adaptive testing can be a critical element in the implementation of

personalized learning activities in states, particularly when taken in concert with mastery or competency level assessments.

One of the quickly-agreed-upon changes during the negotiated rulemaking process was that districts could select “nationally-recognized high school tests if approved by the state,” as long as the assessment is generally used in other states and results are accepted for college admission by postsecondary institutions. As we have reported, many states are switching from PARCC and Smarter Balanced assessments, which are still allowed, to ACT and SAT assessments and as *Politics K-12* noted, “It would seem that Advanced Placement and International Baccalaureate are also kosher.” However, as the regulations state, if such “nationally recognized high school tests” are used, they must be given to all students in the state at the same time without any “phase-in” transition period allowed. Appropriate accommodations must be provided for English language learners and students with disabilities taking the alternative high school test and if such tests are used generally, opportunities must be provided for parents to provide “input” when the state explains why such tests would be used. As noted, if alternative nationally-recognized assessments are used, they must provide reasonable accommodations for students with disabilities, which is an issue in those states which require students to take the SAT or ACT for state accountability purposes, as continually reported in Education Week’s High School and Beyond blog (April 14th).

The USED proposed final regulations will likely focus heavily on assessment requirements related to students with disabilities and those English language

learners. Alternative assessments have been allowed for two decades for students with “severe cognitive disabilities” under NCLB. Up to one percent of such students who met proficiency on the alternative assessment could be counted for state accountability reporting. Under ESSA, the 1% cap applies to the state as a whole and not to an individual district, although a waiver could be provided by USED to a state in which the 1% cap is exceeded. And as described in a related Washington Update item, new alternative assessments for students with “severe cognitive disabilities” will be taken beginning this year in more than 20 states. However, the proposed regulations will most likely reflect the lack of agreement during the negotiated rulemaking meeting on a definition of “severe cognitive disability”; the term’s meaning will be delegated to the state to define. Potential opportunities may exist here for firms who can align their curriculum, modules, etc. and other instructional materials to the needs of the 580,000-600,000 students estimated having severe cognitive disabilities.

As for English language learners, accommodations must also be provided including requirement that states use tests in languages spoken by the significant group of students in a district or a state. Evidently the states will have to decide which language or languages are spoken by a significant number of ELLs and if a second version of an “English language” test in the language spoken by the second largest group of non-English speakers is to be developed and used. In any event, states must select an assessment that measures the degree of progress made toward proficiency in English that is made for a student in reading, writing, speaking, and listening. These approaches, particularly those used in California, could

have implications for firms that have embedded formative assessments which are available in second languages and/or programs which could be used in dual immersion programs for ELLs.

Final USED regulations are expected in the near future.

The New Education Every Student Succeeds Act (ESSA) Will Allow Firms More Opportunities to Participate in the “Newly-Revised” Investing in Innovation (i³) Program Renamed “Education and Innovation Research” (EIR) Program

Of the Obama/Duncan flagship programs, the renamed i³ program, called Education and Innovation Research (EIR) grant program, is included in the new ESSA. For the first time, many TechMIS clients will have an opportunity to participate directly in the program, which under i³ regulations only permitted districts and not-for-profit organizations to apply. Education Week (March 23rd) points to a number of new “twists”: “For instance, under i³, school districts could partner only with non-profit groups, but EIR will allow schools to collaborate with for-profit businesses. And under EIR, states --not just districts – will be able to receive the grants, said Congressional aides who worked on creating the program.”

During the 2010 initial round of i³ grants, to our knowledge, only one for-profit organization, Pearson, was able to receive a portion of an i³ grant to Montgomery County Maryland public schools to develop components of a curriculum. Subsequently, a number of firms, including some TechMIS

clients, participated indirectly; but with few exceptions, districts or non-profit grantees which proposed significant participation with for-profit organizations were not funded due to the strong USED anti-for-profit mentality which began early and grew even more during the later years of the Administration. These restrictions were increasingly evident in i³ grant regulations/guidance and in applications.

It is important to note that former Secretary of Education, Lamar Alexander, now Chairman of the Senate Committee responsible for most of ESSA provisions, was and still is a proponent of a “level playing field” between profit and non-profit organizations. In December 1992 as the outgoing Secretary, he signed a directive, which allowed Title I funds to be used to pay for not only the principle, but also the interest on lease purchase arrangements for education technology hardware, and related equipment used by districts in Title I, which bolstered the fledgling education technology sector significantly over the next several years.

There are other changes to the i³ program, which has funded almost 160 projects totaling \$1.3 billion over the last six years, which some TechMIS subscribers should take into account in deciding whether or not to apply for or participate more heavily as a partner with states and/or districts. Of the three types of grant programs “development grants,” “validation grants,” or “scale-up grants,” as Education Week points out, a greater emphasis will be placed on “research priorities of the field in setting priorities for grants.” Over time, the Obama/Duncan Administration shifted the i³ absolute priorities that it would fund based upon its perceptions of the priority needs of districts

and the research community over the seven-year period ranging from interventions to turn around failing schools to STEM to high school reform. In this sense, when Congress would not fund a proposed new initiative, the Administration would seek “loose” competitive grant funding (such as i³) to support such priorities, which made it difficult for potential applicants to count on stable priorities, which they could take into account for planning and development purposes. This new stability should be an important boon for some TechMIS clients.

Another twist in ESSA would be to “adopt” concepts borrowed from the very successful Small Business Innovation Research (SBIR) program where initial “proof of concept funds” were made available and then followed by significantly increased developmental or demonstration funds supporting pre-rollout of new approaches and interventions that met most success criteria.

Aside from the SBIR program which funds about \$30 million in grants annually to firms to design, develop, and then “beta test” technology-related products, particularly those used in “thin markets” such as special education, the only new potential major program which could support some advanced development and scale-up products would be the new ESSA Title IV Consolidated Grant program; however, as we discussed in several recent TechMIS reports, the current funding level of the 50 consolidated programs is only about \$250 million and for the FY 2017 budget, the Administration has proposed \$500 million, not nearly enough to meet the \$1.6 billion authorized level to meet the new Title IV funding level and other conditions, which would set aside about 60 percent of the total

for technology, professional development, and directly related services. While regulations will most likely clarify what amount of the 60 percent potential set-aside could be used for technology and professional development, congressional staff members responsible for including the so-called I-TECH amendment into Title IV have recently said that the intent of Congress was that only up to 15 percent could be used for purchases/grants specifically related to technology, software, and devices, while 45 percent was intended to be used for technology-related professional development.

The New ESSA State Reporting Requirements Could Help TechMIS Subscribers Identify Districts and Schools to Target with Specific Types of Interventions When the New Requirements Are Actually Implemented by States

While regulations and guidance are currently being developed, it is likely that the effective date of required reporting implementation will vary depending upon mechanisms used (e.g., state report cards or state annual reports). An exception could be state reporting requirements in the Law that USED will want to use to determine whether or not states are complying with civil rights laws, which are currently in effect and can be enforced now by USED Office of Civil Rights lawyers.

As part of the accountability system which each state has to develop, certain types of information is required to be included in state report cards. As Education Week’s Politics K-12 blog stated, “Under ESSA, state report cards will now have to explain a

lot of their accountability systems, including their overall student achievement goal, how many kids a school must have from a particular subgroup for those students to be included for accountability purposes (otherwise known as “n” size). The list of indicators used to measure a school’s performance and how much weight each indicator has and how schools are singled out for extra support and what schools need to do more to move on from improvement status.”

States will have much flexibility in selecting the non-academic “indicator” used in part to determine district and school accountability, which suggest the types of programs and interventions (e.g., improving student engagement, improving parent or community engagement, implementing advanced placement courses, etc.).

Under both NCLB and state flexibility waivers, states were “slow” in identifying and posting the names of Priority and Focus schools from which eligible schools for SIG grants could be determined. However, beginning next year, new ESSA funding for SIG schools will have been used and report cards may be the only reliable source of identifying schools receiving school improvement grants under the new ESSA 7% SEA set-aside, replacing the current 4% set-aside; and the districts receiving possible additional 3% set-aside in certain states to receive “direct student services” such as tutoring. In addition, state report cards are supposed to also give an indication of what types of interventions are being prescribed, recommended and encouraged by the states to be used in the schools. To the extent the SEAs do meet this requirement by accurately identifying districts and schools in a timely manner, this difficulty in the past

should be minimized.

The SEA state report card and other mechanisms will also include more discrete breakdowns of the number of different types of students being enrolled and served with Federal and other funds by districts and schools. One such subgroup of students is so-called “long-term English Language Learners” which have yet to become proficient in English. As *Politics K-12* noted, “test scores and participation rates, along with school performance quality indicators are supposed to be provided in such detail to allow for “cross tabulation.” The example given is the number and percentage of Hispanic English language learners who also receive special education services. As we have reported over the last five years, the number of dually-served ELL students who also receive special education services has been estimated to be between 750,000 to over one million and growing.

Also, of interest to most TechMIS clients is the new requirement included in ESSA placed upon states to report per-pupil spending in each district and each school. This particular requirement could be used to “prove” that state and local funds are equitably distributed to Title I and non-Title I schools and that Title I funds are used to supplement-not-supplant state and local funds. This issue is being highly debated in the negotiated rulemaking process and will be reflected in regulations, which will be developed by USED. And, during Secretary King’s testimony before the Senate HELP Committee, Chairman Lamar Alexander, a chief architect of ESSA supplement-not-supplant provisions threatened to use congressional oversight power such as language in appropriation bills to refuse funding USED regulations if they did not

reflect the intent of Congress (see related Washington Update).

The New Direct Student Services (DSS) Provision in ESSA “Could” Provide an Optional 3% Discretionary SEA Set-Aside of Title I Funding and Additional Flexibilities for Districts to Provide for Students Online Courses, Credit Recovery, School Choice, Personalized Learning, and Tutoring, Which Could Provide Opportunities for Firms with Relevant Products/Services

The New Direct Student Services (DSS) would provide a 3% SEA set-aside of Title I funding in addition to the 7% set-aside for school improvement activities (i.e., which increases the 4% set-aside to “replace” the defunded School Improvement Grant program in ESSA). While the 3% set-aside funds are supposed to be allocated to districts and/or schools identified for improvement, the implementation procedures and activities should be developed through “meaningful collaboration” between the SEA and its districts which could create controversial and sensitive issues, which sales staff need to be aware of in approaching districts. The DSS optional set-aside was supported by AASA which opposed the NCLB 20% Title I set-aside for supplemental educational services (SES) which came out of the district’s Title I budget; however, AASA supported the availability of funds for tutoring if it came from a different funding stream from the SEA. Also, another important champion of the DSS services is the Chiefs for Change, a “spin-off” group of Chief State School Officers, that now includes some districts, which spun off from

the larger CCSSO and supported reforms such as school choice and SES under NCLB. The tensions, which could be created at the district level, were a major bone of contention at the March Annual Legislative Conference of the Council of Great City Schools, which generally opposes SEA set-asides. USED officials argued that the 3% earmark for DSS was part of the 7% increased set-aside for school improvement; on the other hand, new legislative committee staff involved in drafting the legislation argued strongly that congressional intent was to set aside an additional new 3% for DSS. At the district level, it became evident that many Title I directors opposed the set-aside for taking more money out of the regular Title I program while higher level district officials and school board members supported the 3% DSS earmark which could be used to provide funding for their respective priority programs and activities.

While the ESSA statute provides some flexibilities allowing states to determine how the DSS option would actually be implemented after consultation with participating districts, regulations are yet to be developed by USED. However, in its new report entitled “Expanding Equity: Leveraging the Every Student Succeeds Act (ESSA) to Provide Direct Student Services,” the Chiefs for Change (CFC) outlines their interpretation of the statute. Based upon CFC involvement and lobbying, key features, which could affect most TechMIS subscribers, are highlighted below.

While the SEA makes the final decision after collaboration with districts, one percent of the 3% of funds can be used to “build organizational capacity at the SEA level to administer the program, with the remaining going to districts, especially through most

likely competitive grants to districts with a high percentage of schools identified for “comprehensive support and improvement” or “targeted support and improvement” activities. LEAs must make a number of commitments and assurances, such as providing adequate outreach to stakeholders and parents, and stating how the district selects providers of DSS which could include the LEA, community colleges, non-public entities, CBOs, and providers of high-quality academic tutoring. Under NCLB SES provision and the new ESSA, the state is also required to develop and make available to LEAs a list of approved tutoring groups and companies.

In its report, the Chiefs for Change argues that the law does not expressly prohibit a state from placing a priority (in awarding funds to a specific district) on a number of activities reflecting the SEA interpretation of congressional intent, including:

- Funding a coordinated approach to implementing statewide reform strategies
- Providing access to AP courses
- Virtual education opportunities
- Establishing an innovative “pay for performance” funding mechanisms by which providers agree to only be paid for reaching agreed upon success benchmarks.

Regarding the use of high-quality academic tutoring options that are adequate for the community, the law requires that each district provide “an adequate number of high-quality academic tutoring options to ensure families have a meaningful choice of services.” States have the capability of determining what an “adequate number of high-quality academic options” means,

especially in hard-to-serve rural areas. In addition, states are required to compile and maintain an updated list of state-approved high-quality academic tutoring providers, that among other things are based upon a fair and rigorous selection and approval process, offers a range of tutoring models, including online, and “includes only providers that have a demonstrated record of success in increasing student academic achievement.” They must also comply with all Federal, state, and local health, safety, and civil rights laws, and provides instruction and content that is secular, neutral, and non-ideological. The report also says that states appear to have the option of updating prior lists of eligible SES providers; however, states should take into account best practices, lessons learned, providers’ track records and other factors.

According to the report, districts may offer the following types of services:

- academic courses not otherwise available at the students’ school, including career and technical education coursework that leads to an industry recognized credential;
- credit recovery and academic acceleration courses leading to a high school diploma;
- advanced Placement and International Baccalaureate courses; and
- personalized learning approaches.

Further USED “guidance” can be expected!!

A New Special Report on How to Teach English Language Learners (ELLs) Called for in New Requirements in ESSA and Office for Civil Rights Guidance is Based Upon “Scanty Research” on Differing Groups of ELLs

The May 11th Education Week article “Teaching English Language Learners: What Does the Research Tell Us?” by veteran research guru Sarah Sparks, identifies requirements and suggested approaches in the new ESSA and ongoing Office for Civil Rights guidance documents are based upon a scanty research base of what works with different groups of ELLs. As the article notes, the USED Office for Civil Rights in a 2015 letter suggests “districts must use instructional practices and programs that are based by scientific evidence and effective in helping students speak, listen, read and write English and meet challenging state content standards.” Of the three general approaches (e.g., including pull-out/push-in tutoring, sheltered English instruction, and bilingual instruction), rigorous research on the effectiveness of each method with specific ELL groups or populations is, however, very scarce. As a result, “This is particularly concerning since Federal civil rights law requires districts to take into account an ELL’s English proficiency level grade, education background, and in some cases native language background to determine appropriate services.”

However, based upon current rigorous studies and evidence, the Institute of Education Sciences has identified the following practices, which research suggests is effective in teaching academic content to ELLs:

- “teach a set of academic vocabulary words intensely over several days in a variety of activities;
- integrate instruction in spoken and written English into content area teaching, such as using science laboratory reports to teach writing in English;
- provide ongoing structured chances to develop writing skills;
- provide small group interventions for students struggling with specific problems in literacy or language development.”

As the article notes, the new ESSA provides districts three years to bring students “to full proficiency and allows them to include former English learners in the ELL accountability subgroup for up to four years.” Depending upon different ELL populations, proficiency in English takes between three as much as eight years. For ELL immigrants (which is about 20 percent of the total population) studies have shown the most effective practices include flexible course and scheduling, training teachers in ELL supports and literacy and ELL interventions, gap filling content instruction, formative assessment of student progress, and extended learning time, including before and after school.

Under the new ESSA, the Title III English Language Acquisition Act will become part of Title I and will likely be subject to Title I supplement-not-supplant (SNS) and other requirements which should facilitate the use of comprehensive solutions rather than those designed for using Title III and/or Title I funds separately, as in the past. This is yet to be determined as the development of SNS regulations is currently ongoing.

New GradNation Report Finds More Than 50% of Low-Graduation-Rate High Schools Are Alternative, Charter, and Virtual Schools and Recommends States:

- **Include These Low-Graduation-Rate Schools in New ESSA State Accountability and Improvement Systems; and**
- **Require Districts to Use Evidence-Based Interventions for School Improvement, Thus Creating Opportunities for Firms With Appropriate Intervention Products and Services**

The seventh annual “Building a Grad Nation: Progress and Challenge in Raising High School Graduation Rates” report by the influential America’s Promise Alliance, headed by founders General Colin Powell and Alma Powell, for the first time used the criteria in the newly-passed ESSA to identify schools required for targeting to increase high school graduation rates of high schools enrolling 100 or more students (about 22,600) with graduation rates of 67% or less. The report found:

- 28% of low-graduation-rate high schools were alternative high schools representing 10% of all non-graduating students; 57% of all alternative high schools were low-graduation-rate high schools;
- 26% of low-graduation-rate high schools were charter schools, representing 12% of non-graduates; 34% of all charter schools in 2014 were low-graduation-rate high schools.
- 7% of low-graduation-rate high schools were virtual schools, producing 4% of non-graduates;

however almost 90% of virtual schools were low-graduation-rate high schools.

Even though alternative, charter, and virtual schools collectively represent only about 14% of high schools and represent only 8% of high school students, they “make up around 50% of low-graduation-rate high schools nationwide and produce 20% of non-graduates.” The report admits that many of these schools “exist to serve vulnerable student populations.” The report emphasizes that “too many of the growing number of alternative, charter, and virtual high schools are not graduating a high percentage of students.” It recommends that these schools be included in the state accountability and improvement systems required under the new ESSA and that states “create evidence-based plans to improve low-graduation-rate high schools; in addition to the Adjusted Cohort Graduation Rate (ACGR) four-year graduation time, it calls upon states to report five- and six-year graduation rates” which would add about 3 percentage points to the “success rate.”

With 100 enrollment or more which have 67% or less graduation rates for reasons of “economies of scale,” the data suggests priorities be placed upon low-graduation-rate alternative, virtual, and charter schools (about 1,200) which appear to be growing. In addition, several states have the high large numbers of regular public schools, which have been identified as low-graduation-rate schools, such as New York and Florida, which have 276 and 203 low-graduation-rate regular high schools, respectively, should also be targeted. The states with highest percentage of low-graduation-rate high schools are Alaska (43%), New Mexico (40%), Florida (30%),

Arizona (29%), Georgia (28%), Nevada (27%), Colorado (26%), Oregon (25%), New York (24%), Delaware (23%), Washington (23%), and Idaho (20%).

The report is available at [AmericasPromise.org](http://www.gradnation.org/report/2016-building-grad-nation-report) and includes individual state profiles (<http://www.gradnation.org/report/2016-building-grad-nation-report>).

Two Recent Studies Find that Teachers View Formative Assessment and Teacher-Generated Tests and Quizzes Are the Most Important Types of “New Assessments” for Improving Student Learning

A recent Gallup Poll and a more in-depth Center on Education Policy (CEP) survey on teacher views related to “new assessments” have found that formative assessments (more so than state summative assessments) and classroom tests and quizzes mostly generated by teachers provide the most useful student assessment data for improving student achievement to meet state standards, especially in math and English/language arts. The fourth annual Gallup poll, commissioned by the Northwest Evaluation Association, found that classroom tests and quizzes are the most important type of assessment in indicating what students are learning (34%), followed by formative assessments (21%); while only 15% found “new” statewide accountability tests were useful in indicating what students are learning. In terms of identifying students who need additional support, 40% of teachers found formative assessments were most useful, followed by 15% who felt that classroom tests and quizzes were useful,

and 10% felt new state accountability assessments were useful.

New state accountability tests were viewed more useful in determining students’ critical benchmarks and informing decisions about curriculum and instruction than the other two types of assessments, as reported by teachers. As *Education Week’s Curriculum Matters* blog (May 5th) summarized the findings, “Formative assessments get the highest marks for helping teachers figure out which students need more support, and classroom tests and quizzes are the most valuable to teachers as a gauge of what students are learning.”

The CEP survey, conducted in late 2015 with over 3,300 qualified teacher respondents which were representative of the national teacher population, corroborated much of the Gallup survey findings and shed light on other teacher preferences and views, which identify possible opportunities for firms which could help meet teachers’ perceived needs. At a general level, CEP found that many teachers would prefer to “cut the frequency of state- and district-mandated tests rather than eliminate them together...The vast majority of these teachers would keep teacher-created quizzes (88%) and teacher-created tests (86%).” The rather extensive survey of standards and assessments related to math and English/language arts found that teachers are using curriculum from a variety of sources, with about two-thirds to three-quarters indicating the primary source were the school districts. However, CEP notes “55% of math teachers and 61% of English/language arts teachers developed or revised curriculum for new standards alone or with other teachers, adapted curriculum from online sources or existing text.” While

most teachers are using student results from “new assessments” to change the way they teach, CEP found “a large majority (83%) of math or ELA teachers who received student performance data from spring 2015 testing said they worked collaboratively with other teachers in their school to understand these data. Other approaches being used by the majority of these teachers to better understand spring test results include engaging in self-study, participating in school- or district-sponsored professional development, using online resources, and working with their principal.” About 20% of the teachers indicated they used collaborative effort, which could have included firms which have online professional networks not affiliated with teacher unions, state-sponsored professional development, or professional development provided by other entities.

Between two-thirds and three-quarters of the teachers indicated that they are using 2015 state test data to modify their practices, such as differentiating instruction based on student needs or improving whole class instruction. About half indicated they used such assessment data to revise their curriculum. CEP notes that only the teachers, who received any performance data on the 2015 tests were asked to respond to the question.

The use of formative assessment and the summative test results were not separated in the CEP analysis. The key CEP investigator confirmed that the “new assessment data” included both summative and formative assessment data, which were available. However, the findings regarding the extensive usage of “teacher-created classroom tests” and “quizzes” was confirmed in both studies and corroborates

the need for immediate feedback provided to teachers to diagnose needs and improve instruction, which contributed to “differentiated instruction.” The CEP study also found that perhaps the greatest perceived need identified by teachers is more time for collaboration, which appears to be by far the most widely-used mechanism used by teachers to assess performance data for classroom and individual student decision making. If such additional time is not provided, individual teachers are likely to seek alternative ways of facilitating such collaboration in a more cost effective way, and/or to seek additional sources, both of which could involve outside groups and firms with appropriate products and services.

Pressures Mount from Several Quarters to Increase Stakeholder Involvement in Planning ESSA Implementation at the State and Local Level, Which in Turn Could Be the First Level of “Complaints” Filed During Actual ESSA Implementation Leading to Enforcement Under Existing Civil Rights Laws Requiring Equal Education Opportunity

Over the last several months, pressures are increasing from several quarters to ensure more intensive stakeholder involvement at the local and state level in planning/designing of ESSA accountability and other key provisions. Under ESSA, more enforcement responsibilities have been delegated from USED to states. If the required state and local district “transparencies” in ESSA are increased and stakeholder involvement is more extensive and intensive, it is very likely that such stakeholders’ monitoring of ESSA actual

implementation will be a “first line means of enforcement,” particularly from civil rights groups, which will be critical to subsequent USED “threats” and “remedies” under existing civil rights equal education opportunity laws. It is likely to be key in the areas relating to overall state accountability systems, subgroup reporting of results, access to quality curriculum and teachers, and monitoring of fiscal provisions in the Law, such as supplement-not-supplant.

In *Education Week’s Commentary* (May 11th), Martin Blank, President for the Institute for Education Leadership and Kent McGuire, former Assistant Secretary for USED, emphasized that involvement of stakeholders is crucial to ESSA successful implementation and supports/efforts by groups such as the Council of Chief State School Officers, who “is encouraging its members to craft processes, to listen carefully, and respond to the wide array of groups with the state in our education system.” Insight Management expert Margaret Wheatley commented that “People will support what they create,” which Blank and McGuire emphasize should be the focus...building long-term partnerships between various stakeholders and districts ranging from parents and students to faith-based institutions.

The ongoing battle between congressional authors of ESSA and USED Secretary King over interpretations of key supplement-not-supplant provisions during the rulemaking process prompted a strong letter from Senator Patty Murray, ranking member of the Senate Education Committee and Representative Bobby Scott, ranking member of the House Education Committee, to ensure that appropriate feedback from the civil rights advocates and other stakeholders

is taken into account in planning ESEA implementation. As the May 11th letter to Secretary King states, “Hearing from teachers, school leaders, parents, community leaders, including local and state civil rights leaders and child advocates and others, will be essential in making sure the Law works in the coming months and years.” The letter points out certain barriers which have arisen at the state and district level and calls for guidance so that various stakeholders group should have “multiple opportunities to provide input in the process.”

While the primary emphasis now is obtaining stakeholder input, which is taken into account in designing accountability systems, the conservative Fordham Foundation has argued that one of the key elements in the effective implementation of ESSA would be greater “transparency” at the district level, while relying upon local stakeholders and political entities to become an effective enforcement mechanism at the district level. As we have mentioned in several previous TechMIS reports and Washington Updates, it appears that USED’s strongest enforcement mechanism will likely be “existing” civil rights laws to ensure equal education opportunity is provided, particularly for minority and underserved populations, which in many districts, do not have equitable access to quality resources. Ironically, the increased requirement that instructional materials and related products purchased with the use of Federal funds be “evidence-based” could be positive for many firms, which felt they were being unduly punished a decade ago when under NCLB “scientifically-based research” imposed the greatest constraints and financial burdens on these firms to demonstrate such evidence. Now, such evidence-based products have a chance to

compete with the Obama Administrations' "supported free" Open Education Resources.

As Blank and McGuire note, while many public school districts have limited capacity to create and implement mechanisms to facilitate increased involvement of stakeholders, there are "other intermediaries who know how to mount effective stakeholder engagement processes. Their expertise can be crucial." The demand for such services is increasing rather dramatically as several firms already in this space are experiencing significant growth.

USED Office for Civil Rights' New Priorities Suggest Expanded Opportunities in Niche Markets Serving At-Risk Youth and Juvenile Offenders

USED will increasingly rely on existing civil rights laws to enforce new priorities under the new ESSA; its new stated priorities suggest increased and/or expanded opportunities for firms, which target at-risk troubled youth, particularly those in the "school-to-prison" pipeline. The recent Annual USED Office for Civil Rights Report To Ensure Education Equity for All Students announced its priorities, which will be their major focus over the next year; four of the five areas suggest greater civil rights enforcement will be paid to:

- providing educational access for individuals in juvenile justice facilities;
- ensuring the quantity and quality of civil rights coordinators in school districts;
- providing equitable access to distance education courses, credit

recovery, and dual enrollment opportunities in districts; and

- chronic student absenteeism from school along with suspension and expulsion.

The other priority focus will be on the availability of free and partial payment preschool provided by school districts. Last year there was greater bipartisanship movement in Congress in favor of activities to help individuals, particularly youth, involved in the "school-to-prison" pipeline, and on more than one occasion then Secretary Arne Duncan called for the \$80 billion of state and local funds now devoted toward "incarceration" and correction facilities/jails be reallocated to provide services, which would prevent or improve the effectiveness of programs to assist these individuals when leaving such incarceration facilities.

Over the last year and half, it has become very apparent that this Administration and possibly the next will rely on existing civil rights laws to enforce many USED priorities, even though more "traditional" responsibilities have been delegated to states under ESSA. One announced priority is to provide minority and under-served individuals equity in terms of access to "equal education opportunities." The stated priorities would focus upon access to distance education courses and other means of online learning, which could include credit recovery and dual enrollment programs. This could occur while at-risk youth are in residential and other facilities and/or to compensate for student absenteeism. The bottom line is that firms, which have products and services for which there is very strong evidence of their effectiveness with these populations in the

various niche market areas could have a “strong leg up” on competition, particularly from Open Education Resources (OER) or other so-called “free” programs available online. Even though the amount of new USED funding for these services has been minimal, the requirements that any programs/services purchased through the use of Federal funds be evidence-based could be a strong selling point for firms with such strong “evidence-based” products and track records. It should be noted that the USED Office for Civil Rights processed in 2015 a record high of 10,392 civil rights complaints, opening more than 3,000 investigations, and reaching more than 1,000 substantive resolutions with school districts and other institutions that included remedies or changes designed to prevent students’ civil rights. As Education Week’s *Inside School Research* blog (May 4th) notes as an example that language-based bias cases have increased 51% over the last five years. In addition to the dramatic increase in cases involving English language learners, lack of access to quality curriculum cases involving the use of technology for students with disabilities among others have also increased.

As a side note, the President’s proposed budget called for a 30% increase for the Office of Civil Rights to increase the number of lawyers from 500 to almost 700.

Miscellaneous (a)

Special education “counts” begin to increase after a decade of decline. Using state reported child count data submitted to USED, an Education Week analysis found that in 2014-15 about 5.83 billion students

were served in special education programs, which is a slight increase from 5.67 million in 2012. This slight increase occurred primarily in two categories: a) “other health impairments” that include attention deficit hyperactive disorder, epilepsy, mobility impairments or mental health issues; and b) autism, which have increased about 165 percent between 2004-05 and 2014-15. However, as Education Week (April 20th) reports, about a third of the increase came from one state -- New York -- but as it notes, “The reasons for the sharp increase in the state are not clear.” These two categories account for one in five in special education.

As the analysis found, most students with disabilities are in other categories including specific learning disabilities, speech and language impairments, behavioral emotional disturbances, and intellectual disabilities, which have declined over the last decade between 11 and 27 percent with the largest category specific learning disabilities declining 17 percent from 2.7 to 2.6 million students. While a number of reasons have reportedly contributed to such declines, we and others have noted that the decline in specific learning disabilities began with the increase in the use of response-to-intervention (RTI) approaches by districts beginning shortly after the IDEA reauthorization occurred in 2004. This reauthorization included the required 15% set-aside of IDEA funds in districts with “significant disproportionality” for Coordinated Early Intervening Services/RTI for at-risk students not yet placed in special education programs, but otherwise having problems such as reading. Other reasons identified in the article included state reclassification of students (e.g., intellectually or disabled or emotionally

disturbed students now reclassified as autistic), and NCLB policies which included disincentives reporting students as having disabilities for inclusion in subgroups (i.e, the “N” size requirement).

In her follow-up Education Week *On Special Education* blog (April 27th) to the original posting, Christina Samuels referred to an email from Professor Perry Zirkel, Lehigh University, who has followed the RTI movement and related policy formulation affecting RTI use more than anyone else, pointed out that reporting only the increase in the number of special education students (e.g., counts) without taking into account the possible growth in total student enrollment since 2012-14, was misleading. As a result, Samuels calculated the percentage increase in counts for special education students served using the best state data available in the USED/OSEP latest annual report to Congress and found that between 2012 and 2013, the percentage of students ages 6-21 served under IDEA increased from 8.2 to 8.3 percent, while the total number increased during that same time period from 5.65 to about 5.74 million. In the most recent blog, she also echoed a generally accepted possible reason why the number of special education students served declined between 2004 and 2014 as follows, “IDEA’s reauthorization in 2004 provided a boost to response-to-intervention, an education framework that provides targeted assistance to students who are struggling academically. That policy change correlates with the decline in special education enrollment, possibly because students were getting early help they needed so they wouldn’t be referred for special services.”

The bottom line is that the reclassification of students with disabilities in specific

categories can affect the amount of funding for a district. The remaining have about 20 states have “weighted” funding formula and other means of determining state allocations based upon the differential costs of providing special education services to students in different categories. As the Education Week article quoted Lou Danielson, Director of Research at AIR, who for almost two decades and served in key positions in USED Office of Special Education programs, “The actual cost of special education programs hasn’t been estimated in a reliable way since 1999-2000 when the estimate was approximately \$50 billion being spent on special education programs, of which 7.5 percent of that was Federal IDEA funds. In addition, as we have reported, over the last several years the cost per-pupil of providing special education services has been unequal among different types of districts. For example, because of the Federal allocation to states’ formula components, the amount of Federal funds generated for rural, smaller districts which have had a declining population since 2000, have increased per-student served compared to larger districts where population increases have occurred.

The Special Education Expenditure Project (SEEP) referred to earlier by Danielson, found that per-pupil education expenditures vary considerably by disability category, ranging from a low of \$10,558 for students with specific learning disabilities to \$20,095 for students with multiple disabilities. And, per-pupil expenditures for special education students are 1.9 times greater than expenditures for students who receive no special education services, or about \$12,525 compared with \$6,556 for regular education students in 2000. Recent estimates are that per-pupil expenditures for the average

student is about \$11,000, which also includes students enrolled in special education.

Miscellaneous (b)

A new report found only two state education agencies require a recommended amount of time for physical education, and just 15 states have additional funding available for physical education programs. The new ESSA requires state accountability systems have at least one non-academic indicator of success, while physical education experts such as Jackie Lund, President of SHAPE America, which developed the report, says, “Physical education fits in nicely with the Every Student Succeeds Act emphasis on soft skills, in addition to academics. She says PE teaches the important skills of teamwork and cooperation,” as Education Weeks’ Time and Learning blog quotes. However, only slightly more than half of the states require a type of student assessment in physical education, which must be performed for all indicators of success in state accountability systems under ESSA, all of which suggests opportunities for expansion in several areas under ESSA. The SHAPE America (Society of Health and Physical Educators) support from the American Heart Association and the Robert Wood Foundation conducted the state survey, which findings included:

- Only Oregon and District of Columbia met the national recommendation for weekly time in P.E. at elementary and middle schools. The number of states setting minimal amount of time for elementary (19), middle schools (15), and high schools (6) for student participation in P.E.

- About 40 states require students to participate in some physical education among the three grade spans; however, most states also allow waivers and exemptions and substitutions for physical education, which “undermine” the requirements, according to the SHAPE report.

According to the SHAPE report, “Active kids learn better, but the benefits don’t end there -- physical education teaches children lifelong skills to keep them healthy. Physical education addresses the needs of the whole child by helping children exercise both their bodies and their minds with a positive impact on their physical, mental, and emotional health. Studies show that active and fit children consistently outperform less active unfit students academically in both the short and long-term. They also demonstrate better classroom behavior, greater ability to focus, and lower heartrates of absenteeism.”

The report also includes profiles to all 50 states, including the District of Columbia, and is available at: www.shapemerica.org

Miscellaneous (c)

During the recent Arizona State University GSV Summit, Bill Gates argued that education technology is at its earliest stages and as a result hasn’t “changed students’ academic outcomes.” As reported by Education Week (April 21st), Gates said the goal of the Bill & Melinda Gates Foundation “is to help innovators” and its focus is on three areas – effective personalized learning solutions, evidence-based practices that work, and adoption of proven technologies.

Regarding personalized learning, Gates reportedly said over the next five years it will require more than just technology, but also “the layout of the classroom” will look different. The need for competency or mastery assessments combined with removing the “seat time mentality” are current barriers, which were evidently not mentioned.

As a side bar to personalized learning, the Brookings Institute Brown Center’s Chalkboard recently reported findings of a RAND study on personalized learning. RAND found that students in treatment schools had an effect size, which was “substantially large” (0.27 standard deviations in math and 0.19 standard deviation in reading) for students with growth continuing in subsequent years of implementing personalized learning. It also found that “personalized learning helped to close achievement gaps” and called this noteworthy “because prior research focusing on students’ access to computers and high-speed Internet has shown that Internet-based education technologies could contribute to widening achievement gaps.” Of the five personalized practices affecting successful implementation found in the 52 treatment schools, two were competency-based progression and flexible learning environments. And, it is noted, “There is no consensus definition of personalized learning, but a central component is education technology.”

Differing from the Duncan/Obama Administration’s strong priority placed upon quick turnaround evaluations of products, Gates reportedly supported the idea of “head-to-head testing to come at different levels,” and “investors are going to have to take a long-term approach because these

studies are expensive and take time,” as reported by [Education Week](#).

Regarding the adoption of improving technologies, the process by which districts select technologies and budget for their purchase “has to change,” he argued, with more money for professional development. He argued that schools need to “see some examples of products that are clearly so successful that districts are willing to spend for them, but I say we’re pretty early in that process.” According to [Education Week](#), knowing why digital learning devices are not accepted by many teachers is important; on the other hand, many teachers are willing to be pioneers in trying ed tech districtwide adoptions, but when they don’t get the desired results “we have to see why.”

Nevertheless, Gates predicted that the digital instructional materials market will grow by \$1 billion between 2015 and 2020 in the U.S., noting “it’s a tough market,” but “from a pure profit potential...it may not be the most immediate market to come to mind.” In closing, Gates said his foundation would like to work with both investors and innovators in closing the “equity gap” in education which technology has to demonstrate it can assist in closing. It is important to note that as of April 21st, [Education Week’s Marketplace K-12](#) blog article on Bill Gates’ speech, entitled “Ed Tech Has Underachieved, but Better Days Are Ahead,” had 26 comments, all of which are mildly to strongly negative.

Commenting on Gates’ presentation, Rick Hess, American Enterprise Institute, identified some “lessons learned” on why education technology has not had the impact Gates envisioned. First, the focus should be on “practical solutions to important

problems, not searching for silver bullets” as panaceas to widespread use. Another is less focus on “taking technology to scale,” but rather solving small problems as small solutions “are good...A lot of small solutions is even better.” And perhaps most critical “New schools and tools work best when co-designed with users, not simply parachuted from on high. It should not be surprising that some of the most promising and popular technology innovations out there today – including names like ClassDoJo, LearnZillion, and BetterLesson – were created in partnership with educators and designed to help them solve pressing problems. Education technology won’t answer Gates’s challenge if we keep waiting on more of the same – on school systems to cram fancy new equipment into place and magically deliver better results.” One can infer that these “lessons” were not taken into account in many Gates Foundation’s activities.

Miscellaneous (d)

The priorities in the final grant competition for Investing In Innovation Funds (i³) will be college and career readiness, improving school climate, and non-cognitive activities, which contribute to academic achievement. Among non-cognitive factors will be Social and Emotional Learning (SEL) skills. Even though the majority of TechMIS clients are not eligible to participate directly (but possibly as a partner as discussed in our April TechMIS issue), these priorities for i³ are likely the same priorities, which will be priorities in the next round of other USED competitive grant programs or regulations during the Administration’s remaining time in office.

The emphasis on SEL as a new priority

became evident in the proposed regulations for identifying districts with disproportionality and allowing, for the first time, social and behavioral Title I interventions for students who have been suspended, including those students already in special education programs, as described in this TechMIS Washington Update. SEL will also likely be absolute priority, with additional points provided, in the next round of competitive grants for other programs under Title II Teacher Quality, Title III, and IDEA, which will be funded before September 30, 2016 after which time the USED competitive grants will come under the new ESSA provisions.

Another example of the Administration’s support for school climate and SEL skills as a non-academic measure for state accountability systems is the USED recent release of a free online survey tool that allows districts, schools, and states to survey sites using the tool to create instant analysis of results. As Education Week (April 20th) notes, “The survey asked students questions about a range of topics from their understanding of school safety efforts to their perceptions of their peers’ ability to navigate social and emotional situations...Researchers found that school climate improvement has led to students who are more likely to be engaged in the classroom to adopt a willingness to learn from mistakes and to avoid problematic behaviors.”

Opportunities for TechMIS clients to participate directly with eligible applicants such as districts and/or SEAs or not-for-profit organizations would likely be greater than under the current i³ program, as noted in our last TechMIS issue, under ESSA’s “renamed” i³ grants program.

Miscellaneous (e)

The high demand for STEM-related activities, particularly related to technology and engineering in rural after-school programs, suggest opportunities for firms with appropriate products and services. The new report by the Afterschool Alliance entitled “The Growing Importance of Afterschool in Rural Communities” found that the demand for STEM-related activities in rural after-school programs is greater than in non-rural districts, especially in technology and engineering. The analysis of the overall survey of over 13,000 households and a smaller online survey of more than 660 after-school providers, found that in comparison to the national average of 30 percent of parents reporting their child’s after-school program offered technology and engineering learning opportunities, only 21 percent of rural community parents “report that technology and learning opportunities are offered nine percent below the national average.” And, compared to parents living in urban communities, 38 percent reported after-school programs offered access to technology and engineering learning opportunities. The gap was 17 percentage points compared to rural parents. And, about ten percentage points in urban parents reported their child has STEM learning opportunities compared to 66 percent of rural parents.

Rural parents also report that accessibility is “also top of mind” for parents who’ve enrolled their child in an after-school program, with more than eight in ten rural parents reported that the location of an after-school program is very important in the decision of where to enroll the child. The transportation problem has grown in rural

areas, from 38 percent saying it is a problem in 2009 to 51 percent in 2014. And where STEM-related activities are offered in rural after-school programs (66%), the level of parent satisfaction with STEM learning opportunities is high (68%).

The survey found that the costs of providing STEM-related activities and other activities such as reading, writing, and math, are relatively high for both schools and parents’ contributions. It is important to note that the vast majority of rural schools receive Title I and IDEA funding. A little-known fact is that because of the outdated funding formula for both IDEA and Title I and dwindling populations in rural district enrollments, the actual amount of per-student served allocations of both Title I and IDEA are higher in rural districts than compared to the vast majority of urban areas. This countervails some of the conventional wisdom that rural districts suffer due to Federal funding formulas.

Given the opportunities of growing online delivery of instruction and related professional development across the board, and particularly in STEM-related areas in which hands-on and blended on-site instruction prevails, there would appear to be growing opportunities for firms providing such products and services. The growth of online delivery infrastructures in states also provides opportunities for intermediate or BOCES-type units to aggregate the market creating economies of scale, which haunts some rural after-school programs.

For a copy of the report, go to: http://www.afterschoolalliance.org/AA3PM/Afterschool_in_Rural_Communities.pdf

