

**Acting USED Title I Director Expects Final Regulations to be Available in November, But Non-Regulatory Letter Guidance on Key Issues to be Issued Shortly Which Should Reduce Some Uncertainty Among Districts Thus Bolstering the Title I Purchasing Cycle**

*A Technology Monitoring and Information Service (TechMIS)*  
**SPECIAL REPORT**

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Acting National Title I Director, Dr. Jackie Jackson, announced during the second annual National Association of Federal Education Program Administrators (NAFEPA) workshop in September, that final regulations, which take into account hundreds of comments on the proposed regulations of August 6, would likely be published in late November or December. In addition, “non-regulatory guidance” is expected to be published in the next 30 days on teacher quality, choice, non-public schools, and teacher aides. To the extent the final regulations are published on schedule and with the allocation to SEAs of approximately 80 percent of districts’ Title I funds in October, both events should bolster the beginning of the Title I purchasing cycle which has been held up because of a variety of funding and other uncertainties related to USED guidance (see September Special Report).

The final regulations will include specific guidance on adequate yearly progress (AYP) which was the focus of the vast majority of comments received from various groups; USED staff are developing option papers to be reviewed by the Assistant Secretary. Guidance will be provided shortly on “schoolwide programs.” As she noted, some principals have to be “re-energized” because they commented that they would rather become a “targeted assistance school” rather than a “schoolwide program” so they do not have to worry about ensuring that all new teachers and aides meet the new

NCLB qualifications. She indicated that the guidance would further encourage creation of more schoolwide programs “as well-implemented schoolwide programs have proven time and time again to be more effective than targeted assistance schools in boosting student achievement.”

The USED Title I office is now officially “ The School Achievement and School Accountability Program” rather than “Compensatory Education.” Dr. Jackson also indicated that a new Instructional Change Unit is being created which will provide assistance to schools in “corrective action” or who otherwise have to make significant changes in the way instruction is delivered in these failing schools.

Those states (more than 30) whose assessment and accountability system have not been approved -- or that are approved “conditionally” -- must submit their state assessment and accountability plans by January 2003, at which time they will be reviewed by state education “peers” for USED final approval or be directed to provide further refinements. Dr. Jackson noted that progress checks regarding adequate yearly progress will be made two years from now to assess state progress in meeting the overall goal of having all students within 12 years achieve the “proficient” level and also to assess progress being made by English language learners who must be assessed annually by districts. During an earlier session, a leading Title I coordinator from a large California district, noted that there are 64 native languages represented in the district’s enrollment and that they would not be able to ensure that such district tests will be available in all 64 languages within the time frame. She noted that the law states that if it is “impractical” for the district to ensure tests are available in all languages, then the state must do so; and if the state can not do so, then the Federal government needs to. In response to a related question about another statute that can not be met by any district, Dr. Jackson noted that if a district has a “reasonable plan and timeline” and indicated a strong movement toward compliance, then her office would likely continue supporting but also monitoring such progress. She reminded the audience that while districts were certainly being held accountable, her office is being held accountable to Congress.

One of the pillars of the envisioned “Title I schoolhouse” (which she indicated were to be addressed

in detail in the four October briefings), is the use of “best practices” and “what works.” She advised district Title I officials to have local research groups or universities document the progress being made in those schools in which student achievement scores have improved significantly. Moreover, she indicated that Title I funds can be used for such purposes, including creation of “model schools,” which can also receive financial incentives.

In emphasizing the need for expanded professional development (15 percent is required to be so allocated from the district Title I “reserve” to schools targeted for the first time, and five percent for all other Title I schools), Dr. Jackson indicated that the new law clearly deals with “content”; however, this does not prevent districts from addressing the question of “pedagogy” and “teaching skills” in their consideration of whether newly-hired teachers are “highly-qualified.” She suggested also that Title I directors view parents under the new law as “customers” or “consumers” as the new law not only provides, in certain situations, choice options for parents, but also requires significant increases in school and district communications with parents before placing certain children (e.g., limited-English proficient) in specific programs.

During the question-and-answer session, Acting Director Jackson indicated that she could not respond to questions such as limiting the number of schools or service providers under choice and supplemental services because the final regulations were in the process of being formalized. She did remind the Title I directors that, before they ask certain questions, they should think about whether or not they really want a firm answer, which is similar to the advice provided last April by her predecessor, Dr. Joe Johnson.

In another session, during a presentation by Jay Urwitz of the law firm Hale and Dorr, a number of questions were raised for which the consensus was “there were no answers,” or the provision could have serious unintended effects. For example, a Title I director from a large southern city asked the former aide to Senator Kennedy, how does one report with what subgroup a student that may have limited-English proficiency, have disabilities, and is black. The initial response was to report that student in only one category. A related follow-up question addressed the difficulty of closing the

reading gap between students with disabilities and other students as students placed in special education exit from the program when their reading and other scores improve significantly and are replaced by lower achieving students. Mr. Urwitz indicated that the drafters of the legislation had not thought about the question. One Massachusetts Title I director indicated that, by taking special education students out of that reporting category, the district would be increasing the probability of not closing the gap. On the other hand, if the student remained in special education for the purpose of Title I reporting, the student would be overly-stigmatized which is one of the reasons why IDEA included the least restrictive environment and other provisions. Having to keep two sets of books would appear to be “ridiculous.”

In his presentation, Mr. Urwitz indicated that, for the first time, Title I explicitly stated that “online electronically-delivered learning content” was clearly an allowable use and that district plans should “reflect on their consideration for using online technology in both instruction and assessment.” In response to a question as to whether or not a district which wanted to use “tutoring” and or “family literacy” programs under Reading First (which are explicitly allowed in the statute), the questioner was told that these activities are not allowable if they are not recommended in the USED Reading First guidance or in states’ applications. He conceded that there was probably little recourse the district could take and that allowable activities could be delimited by the state.

On a last note, regarding the pending FY 2003 budget, he noted there is a \$3 billion difference between the proposed Administration budget and the Senate version. He indicated that while there would be a likely increase once the House, Senate, and The White House agreed on the budget, the increase could be only one-half to one-third of what is on paper because the final approval may be as late as March or April, six or seven months into the new fiscal year.

A comment was made to Dr. Jackson regarding which NAEP test would be used --- the “trend” analysis which is highly correlated with most current national norm-referenced tests, or the “main” NAEP analysis, which excludes math computation and is based upon national standards such as those developed by NCTM. As noted in the last TechMIS report, recent results on math and reading

are totally different when one compares the two tests. She indicated that her office did not address that issue yet but would be asking a staffer to do so.

The NAFEPA organization will be instrumental over time by exerting its influence to foster changes which are more rational and reasonable regarding No Child Left Behind provisions that can be practicably implemented. The annual Spring legislative conference will be held in Washington, D.C., on April 6-10, 2003, and will be attended by more than 300 Title I decision makers who control well over half of the \$12 billion Title I budget. Unlike other, much larger, Title I conferences, NAFEPA allows high-level officials from education publishers and other groups to network directly with key decision makers; the role of sponsors and exhibitors at this conference will be much more pronounced than in recent NAFEPA conferences. The new person handling sponsorship and exhibits is Carol Brush, Director, Federal and State Programs, San Juan Unified District (916/971-7202). For more information go to [www.nafepa.org](http://www.nafepa.org).