

May 7, 2002

Susan B. Neuman Assistant Secretary for Elementary & Secondary Education  
U.S. Department of Education  
400 Maryland Ave., S.W., Room 3W315  
Washington, DC 20202

Dear Dr. Neuman:

On behalf of the Software & Information Industry Association (SIIA), I write to submit comments on the U.S. Department of Education's implementation of the No Child Left Behind Act (NCLBA). The NCLBA's enhanced assessment, accountability and school improvement provisions provide an ambitious and unprecedented step toward the goal of ensuring all students meet high achievement standards. SIIA looks forward with our member companies to working with the U.S. Department of Education and other stakeholders to implement the new law.

SIIA is the principal trade association of the software code and digital content industries, representing more than 800 leading high-tech companies that develop and market software and electronic information for business, education, consumers and the Internet. SIIA member companies provide education software tools and digital curriculum, and depend on the nation's schools for a skilled high-tech workforce.

SIIA and its member companies believe technology is critical to meeting the nation's education goals as well as the goals and requirements of the No Child Left Behind Act. From distance learning opportunities to enhanced data-driven accountability and decision-making, and from individualized learning models to parental involvement, technology is helping transform the way we teach and learn and increasing educational productivity and student achievement.

We are pleased with the NCLBA's recognition and support of technology, including through both the Title II, Part D technology grant and technology's integration throughout other core programs. Continued federal leadership is essential to the nation's progress in effectively integrating technology into instructional and management practices.

Based on our policy experience helping to develop the legislation and our practical experience working with stakeholders to implement education technology solutions, we take this opportunity to comment on several issues related to Title I. We provide these views with the goal of ensuring NCLBA implementation meets the law's intent to support the effective use of technology in meeting the law's goals and requirements.

### **Title I Supplemental Services**

Title I Section 1116(b)(5) requires that supplemental services be made available to students in schools identified as failing to make adequate yearly progress for 3 consecutive years. These services are outlined under Section 1116(e). Paragraphs (2)(A)(ii), (4)(C) and (10)(A)(i) each include provisions that could limit services to those delivered by providers located within the local educational agency, neighboring local educational agencies or within a reasonable distance.

SIIA is concerned these provisions do not make adequate allowance for educational services provided through distance education, including through Internet-based and other distributed e-learning technologies. In particular, these provisions both require local and state agencies to only identify providers located within the geographic area of the school and enable local agencies to seek a waiver from these requirements in the absence of a local provider. However, absent the due consideration and inclusion of such providers, it is likely that students in many eligible schools will have fewer options available to take advantage of this supplemental opportunity. In fact, students in most rural areas will likely have no options due to the absence of eligible providers located in their geographic area.

We therefore urge the Department to issue clarifying regulations and guidance that require local and state educational agencies to give due consideration to those providers that deliver educational services through distance learning technologies. While this consideration should not compromise other governing provisions such as with regard to the determination of provider criteria, the Department should encourage local and state agencies to take into account the unique nature of Web-based instruction.

Department regulations and guidance should apply this principle to clarify the following provisions so that geographic distance is not a primary factor in local or state determinations:

- **State Educational Agency Responsibilities (paragraph 4).** The Department should require states to both reach out to providers delivering online instruction, including those located outside the state, and include any such approved providers on the lists for all districts. This clarification should be provided with regard to state responsibilities to "promote maximum participation by providers," "maintain an updated list of approved providers across the State, by school district," and "provide annual notice to potential providers of supplemental educational services of the opportunity to provide services."
- **Local Educational Agency Responsibilities (paragraph 2).** The Department should require local agencies to include eligible providers who deliver online instruction and/or are not located in the district, neighboring areas or state. This clarification should be provided with regard to local responsibilities to provide "the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies."
- **Waiver Requirement (paragraph 10).** The Department should clarify provisions that allow the state educational agency to waive the requirement for supplemental services if "none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distances of that area." The Department should require that such waivers only be granted if there are no eligible online providers.

In addition, we encourage the Department to assist state and local educational agencies in this process by helping to promote maximum participation by local, regional and national providers of web-based instruction.

Finally, we call to your attention the savings in transportation costs involved in the delivery of supplemental services through distance learning technologies. In light of this benefit, SIIA encourages the Department to recognize the opportunity and appropriateness of shifting Title I resources. SIIA therefore encourages the Department to issue regulations and guidance that enable resources that would otherwise be dedicated to necessary transportation costs to be shifted to increase the resources available for the supplemental educational services themselves.

### **Title I Applications & Plans**

State officials and local educators have long looked to technology to help meet the goals and requirements of Title I. From instructional software to online professional development to data collection and reporting, states and districts take advantage of the program's flexibility by spending several hundred million dollars of Title I funds each year on technology solutions. In fact, Title I explicitly encourages dissemination of report cards and related accountability information via the Internet. The increased emphasis and requirements with regard to assessment, accountability, data-driven decision making, professional development and instruction will continue to drive the state and district Title I reliance on software solutions.

To recognize and support this process, SIIA therefore urges the Department to issue guidance encouraging states and districts to describe their use of technology in Title I plans and applications. With technology so key to NCLBA implementation and receiving significant Title I resources, it is critical that state and local educational agencies consider and implement technology in an integrated and holistic manner. Such a review through the Title I planning process will encourage grant recipients to be more thoughtful -- and thus more efficient and effective -- in their use of technology under Title I.

### **Title I Schoolwide Programs**

Consistent with SIIA's above comments with regard to Title I Applications/Plans, we urge the Department to ensure that Title I schoolwide programs are not used to reprogram Title II, Part D technology grant funds to other purposes.

More specifically, Department regulations and waiver authority such as that provided under Section 114(a)(3)(A) should not allow Title I schoolwide programs receiving a Title II, Part D grant to be exempted from that program's focus on, and dedication of resources to, technology solutions. This recommendation should not be construed as opposition to schoolwide programs or the goals of program integration. SIIA recognizes the importance of holistic educational approaches that leverage all program resources toward common means and ends. And SIIA supports the manner in which schoolwide programs can enhance cross-program coordination, planning and service delivery.

Thank you again for considering SIIA's comments regarding the implementation of the No Child Left Behind Act's Title I provisions. SIIA and our member companies look forward to working with you on these and related issues to ensure the new law meets its promise of increased student achievement and technology literacy, including through the integration of effective technology solutions. If we can be of further assistance, please contact me at (202) 789-4444 or [marks@siia.net](mailto:marks@siia.net).

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Sincerely,

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