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Education Policy Update

July 20, 2017

As the House and Senate prepare to leave Washington for the summer recess, many of the Administration's 2017 policy goals, including education policy objectives, remain incomplete or unaddressed. The majority will have less than 50 legislative days to push the Administration's agenda forward, when Congress reconvenes after Labor Day.

Given the quickly dissolving calendar, and growing pressure on Republicans to make at least some progress before the contentious midterm election cycle begins in earnest, congressional leaders will have to make tough decisions about how to prioritize their most significant policy goals. This high stakes planning must account for completing several "must do" tasks, including raising the federal debt ceiling and completing the appropriations process, or passing a temporary spending measure, to continue government operations after September 30. The recess will provide important time for this congressional planning, but it should also provide the Administration much needed time to regroup, including offering relief from growing pressure from fellow Republicans, as well as Democrats, related to the Every Student Succeeds Act implementation process. This update provides additional background on these issues and summarizes several other important education policy developments.

Fiscal Year 2018 Appropriations

On July 19, the House Appropriations Committee approved (28-22) the fiscal year 2018 Labor, Health and Human Services, and Education funding bill. The measure provides \$66 billion of discretionary funding for the Department of Education and represents a \$2.4 billion reduction compared to the current fiscal year. The bill provided level funding for ESSA, Title I, while extending a \$200 million increase for the Individuals with Disabilities Education Act (IDEA) State Grants program. Perhaps the biggest surprise in the bill, however, was the committee's decision to eliminate over \$2 billion in funding for educator and leader professional development (ESSA, Title II). The Title II cut coincides with the Trump Administration's request to Congress to eliminate the program, only 18 months into ESSA's implementation.

Other select Department of Education and Department of Health and Human Services funding levels proposed by the bill include:

- Perkins Career and Technical Education: \$1.2 billion (level funding)
- Student Support and Academic Enrichment Grants: \$500 million (\$100 million increase)
- State Assessments: \$369 million (level funding)
- State Longitudinal Data Systems: \$32 million (level funding)
- 21st Century Community Learning Centers: \$1 billion (\$191 million reduction)
- Charter School Grants: \$342 million (\$27 million increase)
- Teacher and School Leader Incentive Grants: \$200 million (level funding)
- Education Innovation and Research: \$0 (\$100 million reduction)
- Head Start: \$9.3 billion (\$22 million increase)
- Child Care and Development Block Grant: \$2.8 billion (\$4 million increase)

- Preschool Development Grant: \$250 million (level funding)

Given the political and policy complexity associated with the federal appropriations process, we do not expect the full House to consider this committee-passed legislation until later in the year, and only then as part of a larger omnibus spending measure. The Senate Appropriations Committee has not yet taken any action on the fiscal year 2018 budget for the Department of Education and Department of Health and Human Services. When the Senate does proceed with the process, we expect their approach to include key differences with the House, so stakeholders should not assume the House allocations, including elimination of funding for ESSA, Title II, represent final spending levels for the next fiscal year.

Perkins Career and Technical Education Act

The House unanimously approved, by voice vote, bipartisan legislation ([H.R. 2353](#)) to update the Carl D. Perkins Career and Technical Education Act. The Perkins Act supports the development of academic and career and technical skills among secondary education students and postsecondary education students who elect to enroll in CTE programs. The House bill does not represent a major departure from current law. Among other changes, the legislation aims to simplify the application process for receiving federal funds and provide greater funding flexibility to better meet unique State and local needs. The legislation also strives to better align CTE programs with “in-demand jobs” and build stronger community and business partnerships. Despite the House’s bipartisan progress, however, the CTE reauthorization debate may extend well into next year.

The Senate Health, Education, Labor and Pensions (HELP) Committee’s CTE work is moving on a much slower timeline. Despite Chairman Alexander’s desire to prioritize the bill for passage this year, the HELP Committee has not held any CTE focused hearings or shared draft legislation with stakeholders. Progress on a companion Senate CTE measure has been impeded by Chairman Alexander’s call to include language in the bill significantly limiting the Secretary of Education’s regulatory authority over key CTE policies, and lingering partisan damage within the committee related to Secretary DeVos’ confirmation proceedings. The delay is likely also attributed to the Chairman’s recent focus on the Senate health care debate, which has required significant time and attention. If the health reform process falls to the wayside after the August Recess, Chairman Alexander may have more time to allocate to the Perkins Act update and other education priorities, but it is not yet clear if Perkins will be among the HELP Committee’s September priorities.

U.S. Department of Education Developments

ESSA Implementation

The Department of Education’s Office of Elementary and Secondary Education remains heavily focused on the ESSA implementation process. The Department recently provided [feedback](#) to eight of the states that submitted ESSA consolidated plans in April: Connecticut, Delaware, Louisiana, Nevada, New Jersey, New Mexico, Oregon, and Tennessee and will soon respond to the other remaining jurisdictions that submitted plans by the April deadline. ESSA provides a 120 day timeline, beginning when applications are deemed complete, for the Department to approve or reject state plans. As a result, this initial review work is continuing swiftly even as the Department prepares to receive consolidated plans in September from the remaining 34 states.

Some fellow Republicans, including Chairman Alexander, have recently criticized the Department for being too prescriptive in responding to the initial wave of state consolidated

plans, including expressing concern about the Department's position that Delaware's student achievement goals were not sufficiently ambitious. This concern led Chairwomen Foxx to call a recent ESSA oversight hearing in the Education and the Workforce Committee to hear from State and local stakeholders involved in the implementation process. At the hearing, Chairwoman Foxx agreed, at the request of committee members, to hold a hearing after the August Recess where members can hear testimony from representatives of the Department of Education.

On a related note, the Department of Education recently released a [Dear Colleague Letter](#) regarding ESSA's mandatory per-pupil expenditures reporting. The letter provides states and districts additional time (until the 2018-19 school year) to begin reporting this information on their mandatory annual accountability report cards.

Political Appointees Status

Secretary DeVos remains the only political appointee confirmed by the Senate to serve at the U.S. Department of Education. Acting Assistant Secretaries have been assigned to the Department's major offices, but the White House has only nominated two individuals – aside from Secretary DeVos – to serve in those roles. The President nominated Peter Oppenheim, a longtime staffer of Senator Alexander, to serve as the Assistant Secretary for Legislation and Congressional Affairs and Carlos G. Muñoz to serve as General Counsel, but the Senate must still consider both nominations. In addition, the White House must nominate individuals to serve in thirteen other Senate confirmable positions at the agency. It is unclear when the White House intends to make these nominations, but interviews and background checks are underway for at least some of the positions.

School Based Medicaid Reforms

Following the path tread by the House earlier this summer, Senate Republican leaders are championing health reform [legislation](#), which proposes significant cuts to school-based Medicaid programs. Health policy experts project that the legislation could eliminate about \$4 billion in annual Medicaid funding used by schools to serve low income and disabled students, including for reimbursements for qualified health services included in a student's individualized education plan. Under the Senate's rules, the health legislation only requires a simple majority for passage, but Republican leaders have been unable to corral the minimum 50 votes required to push the process forward with the Vice President's help. After Senate leaders suggested they were ready to abandon the health reform process, President Trump urged them to continue working on the legislation, including delaying the August recess until it was finished. It does not appear, however, that the Majority Leader has subsequently been able to recruit additional Republican senators to support the measure. If he is unable to rally additional votes for the bill this week, the Senate may adjourn for the August recess as originally scheduled and leave town without a significant legislative victory.

Notable Recent Hearings

On June 20, the Senate Subcommittee on Communications, Technology, Innovation, and the Internet held a hearing titled "The Universal Service Fund and Rural Broadband Investment." Witnesses said Universal Service Funding – including funding for the E-rate program - is critically important for improving and expanding broadband access, including for the nation's schools. Witnesses also discussed the "ripple effect" that broadband investment has on community job growth and other indicators. Much of the hearing focused on telehealth and telemedicine's benefits for older adults, especially in high cost and hard to reach rural areas. Several witnesses

said the FCC's broadband plan should not call for a one size fits all model due to a variety of unique geographical differences.

On June 28, The House Education and the Workforce Committee subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing titled "Exploring Opportunities to Strengthen Education Research While Protecting Student Privacy." Several witnesses testified about data's importance to educational research and noted that data could be used for research without compromising student privacy. They said research is imperative for states and communities in order to improve their education systems, as well as to identify areas of need and specific levers of change. Representatives Polis (D-CO), Rokita (R-IN), and Thompson (R-PA) cited their support for education data research and ensuring data privacy laws protect students.

On July 13, the House Education and the Workforce Subcommittee on Early Childhood, Elementary, and Secondary Education held a hearing titled "Opportunities for State Leadership of Early Childhood Programs". The hearing focused on strategies for improving early learning programs. The witnesses cited the importance of enabling parents to select the right childcare service for their family and avoiding a one size fits all models.

On July 19, the Senate Commerce Committee held a confirmation hearing for: Ajit Pai, Jessica Rosenworcel, and Brendan Carr to be Members of the Federal Communications Commission. Ms. Rosenworcel was a key champion for improvements made by the FCC to the E-rate program, during her prior term as commissioner. Chairman Thune expressed interest in moving the three nominations through the committee process early next week, so that the full Senate can act prior to the August recess.

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