

Washington Update December 9, 2016

Dear Colleagues:

Congress is wrapping up and leaving town and the Trump Administration is moving into place.

1. In Final Act, the 114th Congress Funds the Government Temporarily through April 28th, and Moves to Adjourn

Yesterday the House passed another continuing resolution (CR) which will fund the government through April 28, 2017. Passed by a vote of 326-96, the bill includes a 0.19% across the board cut for all programs including education. This cut keeps the funding level under the mandated budget caps for FY 2017. Despite a last minute Democratic hold up over health care benefits for coal miners, the Senate is expected to follow suit and pass the bill today, sending both bodies home for the holidays.

One notable provision in the bill related to education is the funding made available (from current unobligated funds) for the DC voucher program – the Scholarships for Opportunity and Results (SOAR) Act. This program was not supported by the Obama Administration and funding for it has been frozen. This freeing up of this funding certainly reflects the new Administration's anticipated support for expanding vouchers.

The April 28 date was chosen with the urging of the incoming Administration giving time to the new Congress to focus on confirming cabinet nominations and addressing the repeal of Obama Care in the early days of 2017. April 28 will be anticipated as the next date where action must be taken to keep the government open and funds flowing. At that time, deliberation for the FY 2018 budget (which should be in place by October 1, 2017) will also be well underway and the need to extend the debt ceiling will be paramount, requiring astute multitasking by all involved!

See: <http://appropriations.house.gov/news/documentsingle.aspx?DocumentID=394665>

See:

http://democrats.appropriations.house.gov/sites/democrats.appropriations.house.gov/files/wysiwyg_uploaded/Summary%20of%20Dec2016%20CR.pdf

See: <http://www.politico.com/story/2016/12/spending-stopgap-congress-232363>

2. Department of Education Issues Final ESSA Regulations on Assessment

As it moves to the end of the Obama Administration, the Department of Education continues to issue final regulations under ESSA. This week the assessment regulations were issued, including rules for new pilots where up to 7 states can experiment with new assessments. This is a package of regulations that had consensus during the negotiated

rulemaking sessions and little was changed since that time. The controversial “supplement not supplant” regulations have not yet been issued.

See: <http://www2.ed.gov/policy/elsec/leg/essa/essaassessmentfactsheet1207.pdf>

See: http://blogs.edweek.org/edweek/campaign-k-12/2016/12/obama_administration_releases_.html?_ga=1.67868309.589128606.1425909031

3. Teacher Preparation: Department of Education Issues Guidance on Regulations; NCTQ Issues New Report

Following up on the release of the final regulations on teacher preparation programs, the Department of Education issued guidance intended to assist in the implementation of the regulations, which are now in effect. Discussions continue on Capitol Hill regarding overturning the regulations early in the new Congress. A number of national education and related organizations continue to object to the regulations and advocate repeal.

The National Council on Teacher Quality (NCTQ) released a new review this week which considers nearly 900 elementary teacher preparation programs. The report notes that significant progress has been made, particularly in relation to reading instruction. The report notes that just about a quarter of programs draw teacher candidates from the top half of college goers based on GPA/SAT/ACT scores; however selectivity has improved. NCTQ bases its assessments of programs on a review of documents related to the program, such as syllabi.

See: <http://www2.ed.gov/documents/teacherprep/teacher-prep-reporting-guidance.pdf>

See: https://secure.aacte.org/apps/rl/res_get.php?fid=3123&ref=res

See: <http://www.nctq.org/teacherPrep/findings/landscapes.do>

4. Obama Administration Highlights Civil Rights Accomplishments in Education and the Need for Continued Vigilance

This week the Department of Education sponsored a gathering that featured past Secretary of Education Arne Duncan and current Secretary John King to reflect on the accomplishments and road ahead for the Office of Civil Rights in the Department of Education. Many advocates are concerned about possible cutting back, or even elimination of this office, under a Trump Administration. This has been an active office under President Obama. The Office issued a report documenting that over 76,000 complaints were received during the Obama Administration and a remarkable amount has been accomplished with a record low staff of 563 full time employees. The office has been particularly active in relation to Title IX addressing sexual assault on campuses and

the use of bathrooms of choice by transgender students. The office administers the Civil Rights Data Collection (CRDC) which has provided significant information that was vital to addressing matters ranging from the equitable distribution of experienced teachers to inequitable impact of school discipline procedures on minority students.

In a related report, the White House updated the status of work on school discipline which has been undertaken by the My Brother's Keeper initiative. Titled *The Continuing Need to Rethink Discipline*, the report reviews a wide ranging set of activities and accomplishments intended to ensure that all students experience welcome and safe climates in school.

See: http://www2.ed.gov/about/reports/annual/ocr/achieving-simple-justice.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

See: https://www.whitehouse.gov/sites/default/files/docs/school_discipline_report_-_120916.pdf

5. Members of Congress Introduce Education Bills Just Before Adjournment

Two important education bills were introduced late this week, serving as markers for the 115th Congress. Both bills will be re-introduced in the 115th Congress when additional co-sponsors will be sought.

HR 6472: The Teachers and Parents at the Table Act introduced by Rep. Kathleen Rice (D-NY) and Rep. Elise Stefanik (R-NY). This bill amends the Elementary and Secondary Education Act to create two advisory committees: one comprised of teachers and one comprised of parents. The committees would provide feedback on the implementation and impact of ESSA to policy makers and make recommendations for improvements.

The RISE Act: The Respond, Innovate, Support and Empower Students with Disabilities Act introduced by Sen. Bob Casey (D-PA), Sen. Orrin Hatch (R-UT) and Sen. Bill Cassidy (R-LA). This bill amends the Higher Education Act to clarify the documentation an institution of higher education must accept when considering whether an enrolled student has a disability, create a TA center to support students and families in accessing disability-relevant information about higher education and to support higher education faculty in accommodating students with disabilities and providing effective instruction.

For HR 6472: <https://www.congress.gov/bill/114th-congress/house-bill/6472?q=%7B%22search%22%3A%5B%22HR+6472%22%5D%7D&r=1>

For the RISE Act: <http://www.nclد.org/wp-content/uploads/2016/12/RISE-Act-Updated-Text-12.6.16.pdf> and <http://www.nclد.org/wp-content/uploads/2016/12/RISE-Act-One-Pager-12.5.16.pdf>

6. A Busy January: 115th Congress; the Trump Administration; the Supreme Court

The 115th Congress is expected to reconvene January 3 and work intensively on confirming President elect Trump’s cabinet nominees prior to his swearing in as President on January 20. It is interesting to note that nominee for Secretary of Education Arne Duncan’s confirmation hearing before the Senate HELP Committee was held January 13 and he was unanimously approved by the full Senate on January 20. We are expecting the confirmation hearing for Secretary of Education nominee Besty DeVos to be around January 11, with Senate approval likely a week or so later. While Ms. DeVos will surely receive stringent vetting and extensive questioning (both at the hearing and in writing), it appears that she will move through the process rather swiftly – unless of course an unanticipated event occurs. Other cabinet nominees will be on similar timetables. Historically, the Senate leans toward approving a President’s cabinet nominations, even if there are stringent objections by some, as they are needed for the government to function and appointing the cabinet is considered part and parcel of winning the presidential election. Only 51 votes (not the 60 often required) are required for confirmation. Thus, even if all Democrats objected, nominees could be confirmed.

The Congress is also expected to bring up a bill in early January, called “Reconciliation,” which will allow for a fast track move to repeal Obamacare. This bill also requires only 51 votes to pass in the Senate, so it is likely to move quickly.

Across the street at the Supreme Court, January 11 marks the day that the court will hear an important IDEA case: *Endrew F. v. Douglas County School District*. The case involves a student with autism whose parents pulled him out of the county school district because they believed he was not making meaningful educational progress. The parents argue that the school district should pay his private school tuition. The case will consider the level of benefit that IDEA requires for a student e.g. should it be “meaningful,” or “some” or “just above trivial” etc. Over 100 current and former members of Congress submitted a brief noting that “it strains credulity to think that Congress would have expended the time and effort to enact and amend {the IDEA} merely to give each student with a disability “just above de minimis’ educational benefit.” Many national disability and related organizations also filed amicus briefs supporting the family.

See: <http://heavy.com/news/2016/12/donald-trump-cabinet-nominees-approved-approval-process-will-be-rejected-confirmed-by-senate-block-democrats-republicans-filibuster-oppose-jeff-sessions-steven-muchin-votes/>

See: <http://www.politico.com/story/2016/12/trump-cabinet-democrats-senate-232136>

See: <http://www.denverpost.com/2016/09/29/supreme-court-douglas-county-student-disabilities-case/>

See: http://blogs.edweek.org/edweek/speced/2016/09/court_special_education_benefit_case.html

Washington Update will resume in January. I wish you all a wonderful holiday season! See you on twitter @janewestdc. If you haven't yet joined the twitter world, make it your new year's resolution! That's what I did last year and now I'm hooked!

Best,

Jane