

Washington Update February 4, 2017

Dear Colleagues:

Betsy DeVos is on her way to be our next Secretary of Education; the teacher prep regs and the ESSA accountability regs are on the chopping block. But there are plenty of sticky wickets along the way.

1. **Betsy DeVos: A Political First?**

Unless you were sleeping all week, you know the week was rife with drama around the nomination of Betsy DeVos to be Secretary of Education. First there was the Senate HELP Committee meeting. Chairman Alexander (R-TN) called for a vote which yielded a straight party line result (12 Rs supporting and 11 Ds opposing). Democrats objected to the result noting that Sen. Hatch (R-UT) cast his vote by proxy, violating Committee rules and thus nullifying his vote. This would leave the vote at a tie: 11-11, therefore not moving her nomination to the floor with approval by the Committee. After much contentious back and forth among the formerly amicable and bi-partisan Committee members, Sen. Hatch returned to the Committee and cast his vote live. With a final vote of 12-11 the nomination of Betsy DeVos was forwarded to the full Senate with Committee support.

Later in the week, two Republican Senators -- both of whom are on the HELP Committee and had expressed reservations during the Committee vote -- announced that they would be opposing DeVos in the final floor vote. Sen. Lisa Murkowski (R-AK) and Sen. Susan Collins (R-ME) cited their reservations about her knowledge of public education and the multiple phone calls they had received raising further concerns. In fact, multiple Senate offices have been overwhelmed with calls opposing DeVos. One office I was in last week told me they had received 30,000 phone calls in opposition! Many who attempted to call reported being unable to get through. Advocates have been aggressively pursuing targeted Republicans in hopes of finding one who would turn the tide, but to no avail as of yet.

Meanwhile DeVos supporters have prepared TV ads pointing the finger at her opponents as "full of rage and hate" since DeVos "angers the extreme left because she exposes their hypocrisy. DeVos wants low-income kids to have the same choices that liberal elitists have for their families." One of the ads is sponsored by America Next, a group overseen by former Louisiana Governor Bobby Jindal.

The Senate voted at 6:30 this morning to proceed to full consideration of the DeVos nomination and a final vote on Tuesday. Debate on her nomination will likely begin Monday night. The vote line up appears to be 50 in support and 50 opposed with VP Mike Pence ready to cast the tie breaker which would result in a final 51-50 DeVos victory. If this occurs, it would be the first time in history that a cabinet nominee was confirmed by a tie-breaking vote from the Vice President. Sen. Alexander and White House Press Secretary Sean Spicer have both expressed confidence that she will be confirmed.

Many have speculated about whether DeVos will sustain damage as a result of this process if she does assume the Secretary's position. She certainly has garnered more opposition than any nominee probably ever for this position. Her performance at her confirmation hearing will long be remembered for her grizzly bear comment and her lack of knowledge about IDEA among other things. Education groups which routinely work with the Department will likely approach her administration with great skepticism.

<http://www.politico.com/story/2017/02/betsy-devos-weakened-secretary-education-234580>

<http://mobile.edweek.org/c.jsp?cid=25920011&item=http%3A%2F%2Fapi.edweek.org%2Fv1%2Fblog%2F49%2F%3Fuuid%3D64845>

<http://www.npr.org/sections/ed/2017/01/31/512507538/under-devos-heres-how-school-choice-might-work>

<http://www.nbcnews.com/politics/congress/defections-put-devos-nomination-peril-n715521>

2. Congress Moves to Repeal ESSA Accountability Regs and Teacher Prep Regs

The House and Senate are moving to repeal a range of Obama Administration regulations across the federal government including in education. The top two on the target list for education were the subject of Resolutions introduced in the House this week. On Wednesday, Rep. Todd Rokita (R-IN), chair of the House Subcommittee on k-12 education introduced House Joint Resolution 57 targeting the ESSA accountability regulations. Rep. Brett Guthrie (R-KY) introduced House Joint Resolution 58 which would rescind the teacher preparation regulations. Both resolutions are allowed by the Congressional Review Act, a law which enables Congress to repeal regulations within certain parameters. If they are overturned, the Trump Administration is prohibited from issuing "substantially similar" regulations. No one seems to know what "substantially similar" actually means, as it has never been tested. The Act has only been utilized once since its inception -- for repeal of an ergonomics rule years ago.

Both resolutions are likely to move quickly in the House, possibly as early as next Tuesday. The Rules Committee meets Monday at 5 pm to determine how they will proceed. While Democrats will likely oppose the overturning of the Obama regulations, Republicans will support the resolutions bringing probable swift passage since only a simple majority is required. Both sets of regulations have detractors and supporters in the education community. However, a broad set of 35 national stakeholder organizations (including both unions, higher education organizations and the NGA) have united to raise concerns about the teacher preparation regulations.

Since ESSA state plans are due in April or September, states are eager for clarity. If the accountability regulations are rescinded, there will need to be clear direction from the Department so states are able to move forward confidently in developing and submitting their

plans. Supporters of the regulations argue that their repeal would cause confusion and muddle early implementation of ESSA.

The Senate is likely to introduce companion resolutions soon, but no word yet on when.

<https://www.congress.gov/bill/115th-congress/house-joint-resolution/58/text/ih?overview=closed&format=xml>

<https://www.congress.gov/bill/115th-congress/house-joint-resolution/57/text/ih?overview=closed&format=txt>

http://blogs.edweek.org/edweek/campaign-k-12/2017/02/house_scrap_essa_teacher_rules.html

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

3. New Hires at the Department of Education

The following names have been listed as new hires at the Department of Education.

- Matt Frendewey, former national communications director for the American Federation for Children (group Betsy DeVos chaired)
- Nate Bailey
- Michael Brickman
- Gillum Ferguson
- Ebony Lee
- Laura Rigas
- Jana Toner

4. Thoughts on the Future of Special Education: Supreme Court Meets the Trump Administration

Written by the parent of a young man with autism, this article offers interesting reflections on the future of special education.

<https://www.theatlantic.com/education/archive/2017/01/is-the-bar-too-low-for-special-education/514241/>

Wishing you a wonderful Super Bowl weekend! I will be in Philly avoiding all sporting events!

By the way, Washington Updates are now posted on my website in case you want to look back at them for reference <http://www.janewestconsulting.com/>

See you on the tweet machine @janewestdc

Best,

Jane