

Washington Update January 14, 2017

Dear Colleagues:

It was a confirmation hearing extravaganza this week for president-elect Trump's cabinet nominees, with controversial nominee for Education Secretary Betsy DeVos being rescheduled for next week! Read on.

1. Congress Moves Ahead on Confirmation Hearings and Trump Policy Priority #1: Repeal Obamacare

Despite some scheduling changes this week, the Senate conducted 6 confirmation hearings for Trump cabinet members, including the controversial nomination of Sen. Jeff Sessions (R-AL) to be Attorney General, a critical position in protecting the civil rights of students. The hearing featured a first-time event in the Senate – one sitting Senator (Cory Booker {D-NJ}) testifying against another sitting Senator (Sessions). In addition to Booker, Rep. John Lewis (D-GA), iconic civil rights leader, and others spoke against Mr. Sessions. Another panel spoke in his support. The full Senate may well vote on his nomination and several others next week.

Paving the way for the repeal of Obamacare, the Senate passed a budget resolution reflecting the partisan divide in the Congress, with the House scheduled to follow suit today. The Senate vote, 51-48, featured opposition from all Democrats along with Sen. Rand Paul (R-KY). Democrats offered 7 hours of amendments (a “vote-a-rama” as it is fondly known) amidst increasing Republican angst over the lack of a replacement for the law. All Democratic amendments were rejected.

The ambitious Republican timeline is to repeal the law by the end of February and replace it by the end of March.

2. Senate HELP Committee Reschedules Confirmation Hearing for Betsy DeVos

Originally scheduled for Wednesday, January 11, the confirmation hearing for Trump Education Secretary nominee billionaire Betsy DeVos was suddenly postponed on Monday night – rescheduled for next week on Tuesday Jan. 17 at 5 pm! (This is the first evening confirmation hearing I recall in all my years in DC). The official word in a joint statement from HELP Committee Chair Sen. Lamar Alexander (R-TN) and ranking member Sen. Patty Murray (D-WA) was that a scheduling concern caused the change. Indeed, with 6 confirmation hearings scheduled on the same day, it was always hard to imagine how Senators could cover all those bases. Another aspect of the postponement is Democrat's ongoing frustration that required ethics paperwork from DeVos has not been forthcoming and the complexity of her extensive involvement with political donations, non-profit organizations, service on boards etc. was less than transparent and challenging to unravel.

Meanwhile letters of both support and opposition to the DeVos nomination continue to roll into the Committee. The Leadership Conference on Civil and Human Rights (LCCR) submitted a letter

on behalf of 200 organizations noting they “cannot support a nominee who has demonstrated that she seeks to undermine the bedrock American principles of equal opportunity, nondiscrimination and public education itself.” They highlighted her lack of experience in relation to other Secretaries of Education. The group Educators 4 Excellence hopes that DeVos will be asked the following: “Given that many advocates of public school oppose your support for vouchers and the privatization of education, how do you plan to bridge this gap in order to work with educators and other key constituents in education, not to mention many within {the Department of Education} who vehemently oppose your appointment?”

Twenty Republican governors submitted a letter supporting DeVos, calling her an “inspired choice” noting her commitment to “harnessing the power of competition to drive improvement in all K-12 schools, whether they be public, private or virtual.” The Center for Education Reform issued an agenda for the first 100 days of the Trump Administration focusing on federal spending and calling for the creation of a commission, possibly the Make Education Great Again for Students Commission, which would explore expanding flexibility for states and districts.

In the House, with the support of teachers unions, Democrats led by Rep. Mark Pocan (D-WI) and others announced a new House Public Education Caucus noting that DeVos and Trump represent a threat to public education. In addition, five openly gay members of Congress and co-chairs of the Congressional LGBT Equality Caucus sent a letter to the HELP Committee urging them to scrutinize her opposition to LGBT rights and her family’s foundation’s donations to organizations that have been an anathema to the LGBT community, including the Focus on the Family which has promoted “conversion therapy.”

DeVos is one of 8 of Trump’s cabinet nominees on Democrat’s list as particularly troublesome.

I will be at the DeVos hearing tweeting @janewestdc. You can tune in to the DeVos hearing at 5 PM on Tuesday here: <http://www.help.senate.gov/>

See: https://www.nytimes.com/2017/01/09/us/politics/betsy-devos-education-secretary.html?_r=0

See: <http://civilrightsdocs.info/pdf/policy/letters/2017/LCCHROpposeDeVos010917.pdf>

See: <https://www.scribd.com/document/336132941/Letter-to-Chairman-Alexander-From-20-Governors-Supporting-Betsy-DeVos>

See: <https://www.edreform.com/wp-content/uploads/2017/01/First100Days.pdf>

See: <https://pocan.house.gov/media-center/press-releases/openly-gay-members-of-congress-raise-serious-concerns-about-betsy-devos>

See: https://www.nytimes.com/2017/01/12/us/politics/betsy-devos-education.html?_r=0

3. Regulatory Roll Back Likely for Some Education Regs

Both the House and the Senate are in the weeds determining which Obama era regulations they want to target for extinction. Possibilities include ESSA accountability regulations, teacher preparation regulations and the supplement not supplant ESSA regulations – if they are released in final form next week. While the House is considering several bills that would allow the roll back of multiple regulations and limit regulatory authority, it is likely that the Senate will use the Congressional Review Act (CRA) to repeal individual sets of regulations that have recently been finalized. Look for Senate HELP Chair Lamar Alexander (R-TN) and newly minted House Education and the Workforce Chair Virginia Foxx (R-NC) to play key roles in what is targeted. If regulations are repealed using the Congressional Review Act, the Department is prohibited from further regulating on the topic of those regulations in any substantial way.

Another strategy would be for the Trump Education Department to begin the regulatory process anew to revise existing regulations. This process takes time as it requires the release of a draft, a public comment period, analysis and cost estimates and release of a final regulation. In some cases, it can require new negotiated rulemaking sessions as well. This strategy does allow for continued regulating on the particular topic however, which is prohibited if the CRA is used, as described above. Rolling back regulations is one of the Trump Administration's early top three priorities.

4. ESSA: Department of Education Issues ESSA Guidance and Seeks Peer Reviewers; Arizona Submits ESSA Draft Plan

Three sets of guidance on ESSA were issued this week as the Obama Education Department makes its final moves before closing up shop next week. The first provides guidance for consolidated state plans due under ESSA in either April or September, 2017. The second is related to state and local report cards required under ESSA; and the third addresses high school graduation rates.

The Department also issued a call for peer reviewers to review ESSA state plans. In particular, educators, researchers and state and local education personnel are sought. The deadline for applications is January 27.

Arizona has become the first state to submit its ESSA draft plan, even though the first due date is not until April. Many components of the draft plan are "to be determined."

See:

https://www2.ed.gov/policy/elsec/leg/essa/essastateplanguidance.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

See:

https://www2.ed.gov/policy/elsec/leg/essa/essastatereportcard.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

See:

https://www2.ed.gov/policy/elsec/leg/essa/essagraterguidance.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

See: <http://www.azed.gov/essa/draftplan/>

5. Deans of Education Issue Statement of Education Principles Aimed at Trump Administration

A new group called Education Deans for Justice and Equity (EDJE) issued a Declaration of Principles on Public Education, Democracy, and the Role of the Federal Government. To date 175 deans have signed the petition. The declaration notes:

“Our children suffer when we deny that educational inequities exist and when we refuse to invest sufficient time, resources, and effort toward holistic and systemic solutions. The U.S. educational system is plagued with oversimplified policies and reform initiatives that were developed and imposed without support of a compelling body of rigorous research, or even with a track record of failure.”

See: <http://nepc.colorado.edu/publication/deans-declaration-of-principles>

6. The Obama Education Legacy Unfolds

This week was flooded with reflections on the legacy of the Obama Administration in education. The White House website has listed its initiatives, activities and accomplishments, which are multiple and expansive. Critics and the press have reflected with a different lense. There are links to a few below. I found the following reflections interesting:

“He scored some early game-changing policy victories on teacher quality, academic standards, and school turnarounds during his first term, but faced a big backlash in his second. That reaction threatened the longevity of his signature initiatives and made it virtually impossible to enact similarly sweeping change in new areas, including early-childhood.” Alyson Klein, EdWeek

“Despite all the promises of a “post partisan” presidency, Obama has pursued a polarizing, bureaucratized and Washington –centric education agenda while exploiting and then draining a substantial reservoir of bipartisan good will....The result is the most unfortunate part of Obama’s legacy in K-12 schooling: His administration took potentially promising reforms and badly bungled them, turning encouraging developments into divisive fads.” Rick Hess, National Affairs

See: <http://www.edweek.org/ew/articles/2017/01/11/obamas-legacy-on-k-12-one-of-bold.html>

See: <http://www.nationalaffairs.com/publications/detail/the-real-obama-education-legacy>

See: <http://www.pbs.org/newshour/bb/will-obamas-lasting-education-legacy/>

See: <https://www.whitehouse.gov/issues/education>

7. Supreme Court Hears Critical IDEA Case

On January 11, the Supreme Court heard arguments in the case, *Endrew F. v. Douglas County School District*. At issue is the critical question of the “level of educational benefit” school districts must provide to students with disabilities under IDEA. Sen. Patty Murray (D-WA) issued a statement noting:

“I am hopeful that the Court will side with the nearly 6 million students in the United States who receive special education services and preserve Congress’ intent in IDEA to provide students with disabilities meaningful educational benefit from the instruction and services they receive.”

A decision is expected in late June.

See:

http://blogs.edweek.org/edweek/school_law/2017/01/supreme_court_weighs_level_of_.html

See: <http://www.scotusblog.com/case-files/cases/endrew-f-v-douglas-county-school-district/>

See: <http://www.help.senate.gov/ranking/newsroom/press/scotus-murray-statement-on-case-determining-rights-of-students-with-disabilities-to-receive-meaningful-public-education>

Washington will be wrapped up in inauguration festivities and protests next week. I’m hoping to get an abbreviated Washington Update out in the midst of the frenzy. Until then, see you on twitter @janewestdc

Best,

Jane