

## Washington Update December 8, 2017

Dear Colleagues:

In keeping with tradition, the Congress has proceeded to cram months' worth of work into the waning days of 2017. The crunch is on!

### 1. Tax Bill Heads to Conference with Big Losses at Stake for Education

The Senate passed its version of the tax reform bill early last Saturday morning. Now that both chambers have passed bills, they are in conference working on a final compromise bill that will be signed by the President. Some key provisions in one bill or the other that are generating concern for educators are:

- Possible elimination of \$250 deduction for teacher expenditures on class materials (though the Senate bill would increase it to \$500)
- Possible end of tax deduction for interest on student loans
- Possible new tax on tuition that is waived for graduate assistants
- New taxes on endowments of some private schools
- Reduction of State and Local tax (SALT) deduction which would result in less funds for education at state and local levels
- Expansion of 529 savings plans (which are currently for higher education only) to K-12 education allowing \$10,000 to be deducted for private school tuition

Educators are actively sharing their concerns about the bills, but the legislation appears to be on a fast track headed to the President's desk as soon the end of the month.

[https://www.washingtonpost.com/news/education/wp/2017/12/02/after-a-high-drama-vote-heres-what-the-senate-tax-bill-means-for-schools-parents-and-students/?utm\\_term=.31cdf561146](https://www.washingtonpost.com/news/education/wp/2017/12/02/after-a-high-drama-vote-heres-what-the-senate-tax-bill-means-for-schools-parents-and-students/?utm_term=.31cdf561146)

### 2. Government Shutdown Avoided.....for Now

Late Thursday, the Congress passed a measure to continue government spending through Dec. 22, thus avoiding a government shutdown....for now. The bill passed the House 235-193, mostly along party lines, and slipped easily through the Senate with a 81-14 vote. This short term stop gap spending bill buys more time for the Congress and the White House to continue negotiating to resolve some tough issues. Budget caps on spending need to be raised in order for long term spending bills to be enacted. As per usual, at the end of the year all unfinished policy business is thrown on the table as Congress puts together this "must pass" bill for Dec. 22. Matters include addressing undocumented immigrants who came to the US as children (DREAMERS), continuation

of CHIP, the children's health care programs, and funding for hurricane relief – all priorities for Democrats.

It will be a busy two weeks before the Congress heads out for Christmas vacation.

<https://wtop.com/congress/2017/12/congress-seems-set-to-avert-weekend-government-shutdown/>

### **3. House Republican Higher Education Reauthorization Bill Mark Up Likely Next Week**

Committee on Education and the Workforce Chair Virginia Foxx (R-NC) introduced the House Republican version of a Higher Education reauthorization bill late last week, H.R. 4508, the PROSPER (Promoting Real Opportunity, Success and Prosperity through Education Reform) Act. The bill is expected to be marked up in Committee next Tuesday. It is unlikely that any Democrats will support the bill and multiple amendments are anticipated from Democrats, which will likely fail along party line votes. Key concerns in the bill related to teachers and teacher education include:

- Termination of Title II, the teacher preparation title which includes the Teacher Quality Partnership Grants, data collection and accountability measures for teacher preparation programs
- Termination of the TEACH grants which support teacher candidates in high need fields
- Termination of three loan forgiveness programs used by teachers: Public Service Loan Forgiveness, Loan Forgiveness for Teachers and Loan Forgiveness for Service in Areas of National Need (for teachers in high need fields like special education)

See: <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=402157>

Summary of bill: <http://www.acenet.edu/news-room/Documents/ACE-Summary-of-House-Prosper-Act.pdf>

### **4. HELP Committee Holds Confirmation Hearings on Civil Rights and Special Education Leaders for Department of Education**

On December 5, the Senate HELP Committee held a confirmation hearing for two key nominees at the Department of Education: Kenneth Marcus to lead the Office for Civil Rights and Johnny Collett to lead the Office of Special Education and Rehabilitative Services. Marcus faced intense questioning from Democrats about the Department's scrapping guidance related to transgender students, revising campus sexual assault rules

and relaxed enforcement of civil rights laws by shying away from investigating possible systemic discrimination.

Collett faced questions about the possible roll back or delay of regulations which set out a formula for states to determine disproportionality in special education and address it and vouchers for students with disabilities. He was asked if he thought the Department of Education should notify parents of students who use vouchers that they would be losing their rights under IDEA, to which he responded that he did not think the Department had the authority to do that. He said he would work with stakeholders to consider the recommendations of a recent GAO report documenting parents' lack of awareness of their loss of rights when they choose to use vouchers for private schools.

Sen. Alexander (R-TN) , Committee Chair, asked all nominees if guidance had the force of law, to which they replied “no.” Alexander is a staunch critic of President Obama’s proliferation of guidance and his Administration’s efforts to enforce it.

The Committee could vote on these nominees before the holiday break. It would be surprising if they are rejected by the Committee. The question is how much Democratic support will they receive.

See hearing here: <https://www.help.senate.gov/hearings/department-of-education-and-department-of-labor-nominations>

[http://blogs.edweek.org/edweek/speced/2017/12/collett\\_confirmation\\_hearing.html?utm\\_source=feedblitz&utm\\_medium=FeedBlitzRss&utm\\_campaign=onspecialeducation](http://blogs.edweek.org/edweek/speced/2017/12/collett_confirmation_hearing.html?utm_source=feedblitz&utm_medium=FeedBlitzRss&utm_campaign=onspecialeducation)

## **5. Education Advocates Rally to Save Two Equity Initiatives: Disproportionality Regulation and Discipline Guidance**

The Department of Education is considering eliminating, delaying or modifying two key Obama era policy initiatives related to equity. The first addresses the disproportionate representation of minority students in special education. In response to a GAO recommendation, the Department determined a standard formula for states to use to make this determination and then to take action if disproportionality is determined. Indications are that the Department may delay or revise this initiative.

Guidance on discipline is in response to the discriminatory use of discipline practices in schools, such as suspension and expulsion – in relation to students of color and students with disabilities. Advocates argue that such discriminatory practices result in a school to prison pipeline for these groups of students.

On December 7 Rep. McEachin (D-VA ) and Rep. Maloney (D-NY) hosted a briefing on over-identification and discipline in special education in a House office building. Today,

the US Commission on Civil Rights hosts a briefing *The School-to-Prison Pipeline: The Intersections of Students of Color with Disabilities*. The briefing is part of an investigation that will examine school districts' compliance with federal laws designed to ensure the safety of students of color with disabilities against discrimination.

National disability, education and civil rights organizations have called for Sec. DeVos to keep the regulations and guidance in place. An "In Class Not Cuffs" advocacy initiative is being led by Educators for Excellence.

Civil Rights Commission briefing: <http://www.usccr.gov/press/2017/12-08-Sunshine-Act-Notice.pdf>.

Watch briefing live streamed beginning at 9 am:  
<https://www.youtube.com/user/USCCR/videos>

Letter from disability organizations: <http://www.c-c-d.org/fichiers/CCD-Disproportionality-LTR-FINAL-with-Sigs.pdf>

In Class Not Cuffs: <https://e4e.org/take-action/get-involved/tell-sec-devos-inclassnotcuffs>

## 6. Department of Education Issues Q & A on Endrew IDEA Supreme Court Decision

Following the March 2017 Supreme Court decision in *Endrew F. v Douglas County School District*, the Department of Education issued a Q and A clarifying the scope and purpose of a free appropriate education which is required under the law. The Q&A explains the case and provides a summary of the Court's final decision and prior case law addressing the FAPE standard. The document also explains how FAPE is currently defined and clarifies the standard for determining FAPE.

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-endrewcase-12-07-2017.pdf>

## 7. New Resources for Educators

- **The American Institutes for Research (AIR) issued "State Accountability Under ESSA: Fall 2017 Submissions."** The report provides results of an analysis of ESSA state plans submitted this fall to the Department of Education to implement ESSA in terms of the accountability systems they put forward.

<http://www.air.org/project/state-accountability-under-essa-fall-2017-submissions>

- **FairTest issued a report “Testing Reform Victories Surge in 2017: What’s Behind the Winning Strategies?”** The report documents how states are moving away from using standardized K-12 student test scores for matters such as teacher evaluation, including:
  - States with high school exit exams dropped from 25 to 13 since 2012.
  - Seven states halted the use of student scores to judge teachers.
  - Ten states now allow parents to opt their children out of some or all exams.
  - Increasing implementation of performance assessments by states and districts.  
New Hampshire’s pioneering program now involves half the state’s districts

See: <http://www.fairtest.org/fairtest-report-test-reform-victories-surge-in-2017>.

Here’s hoping you are headed toward a great holiday vacation. My family is off to Jamaica this year -- real change of pace for us!

Best,

Jane