

Washington Update January 12, 2018

Dear Colleagues:

Congress left town for the long holiday weekend with a potential January 19 government shutdown still looming. When they get back to town next Tuesday, some decisions will have to be made...or not.

1. Congress Struggles to Cut a Deal to Avoid January 19 Government Shutdown

There was lots of huddling in Washington this week with Republican and Democratic members of Congress meeting at the White House and various bipartisan negotiations underway in the House and Senate. The precipitating deadline for the negotiations is January 19 when funding for the government expires unless Congress acts. In typical fashion, this “must pass” bill has attracted numerous high profile and unresolved issues as a vehicle for resolution. Two of these key items are lifting budget caps and addressing DACA – individuals illegally brought into the country who have grown up here.

Educators have been very active on DACA. Without successful resolution by March, thousands of teachers would lose their eligibility to work and face deportation. Thousands of students in both K-12 and higher education would face deportation. The American Council on Education, representing college presidents, and the American Federation for Teachers, on behalf of K-12 teachers, have been leading these efforts on behalf of education.

The Budget caps are equally as sticky as DACA. Both sides agree that they need to be addressed to lift the sequester-level caps for FY 2018 before funding for the rest of the year can be resolved. But how much they should be raised and how those increases would be distributed remain sticking points.

The Senate cannot secure passage of a bill without bi-partisan support. It is difficult to see how that support would be secured unless a deal is reached on DACA, the budget caps and other issues before January 19. There is speculation that another short term continuing resolution would be passed next week to keep the government running into mid-February and buy time for continued negotiations. Republicans have little appetite for a government shutdown, but they will have to give the Democrats something to gain their support for a fourth temporary funding bill. Needless to say bi-partisanship is in short supply in DC these days.

https://www.washingtonpost.com/news/the-fix/wp/2018/01/03/will-the-government-shut-down-in-january-never-say-never/?utm_term=.bd17af435156

2. Department of Education Civil Rights Nominee Draws Opposition... and Support

The Senate HELP Committee was expected to vote this week on the confirmation of three key education political appointments at the Department of Education. That voting session was postponed amidst growing criticism of Kenneth Marcus, the nominee to lead the office of civil rights. The Leadership Conference on Civil and Human Rights and 31 other civil rights groups submitted a letter opposing his nomination. They raised concerns about his response to questions during his confirmation hearing noting that he "failed to demonstrate an understanding of Title IX's inclusion of gender identity in its protection from discrimination based on sex and gave evasive answers that did not acknowledge the overwhelming case law on the subject."

However, Jennifer Braceras, a former Republican Commissioner on the US Commission on Civil Rights, penned an op-ed supporting Marcus and describing his credentials as "impeccable."

<https://civilrights.org/oppose-confirmation-kenneth-marcus-assistant-secretary-civil-rights/>

<http://thehill.com/opinion/civil-rights/368193-impeccable-civil-rights-credentials-confirm-kenneth-l-marcus>

3. Changes for Education Committee in the Senate

The result of the addition of a Democrat to the Senate (Doug Jones from Alabama) changes the margin of the chamber to 51 Republicans - 49 Democrats (this includes the two Independents). This results in a shift in the proportion of Democrats to Republicans sitting on Committees. Moving forward Republicans will have a one vote margin on Committees.

Tina Smith, who joined the Senate for the second session of the 115th Congress taking the place of Al Franken, will take Franken's seat on the Senate HELP Committee. Newly elected Senator Doug Jones (D-AL) will also join the HELP Committee. Sen. Sheldon Whitehouse (D-RI) has left the HELP Committee to join the Finance Committee.

<https://www.help.senate.gov/about/members>

4. Department of Education Issues Report on Special Education Violations in Texas

This week the Department of Education issued a damning report calling out multiple violations of IDEA in the state of Texas. The report was initiated prior to the election of President Trump and is the result of regular monitoring conducted by the Department of

Education on state implementation of IDEA. The report confirms the Houston Chronicle reporting from 2016.

Texas implemented an illegal initiative to cap the number of students who could receive special education services at 8.5%. The national average is 13%. IDEA assures special education services for all students who qualified for them, not just a certain percentage. The Department of Education determined that the percentage of students identified as eligible for special education services in Texas dropped from 11.6% in 2004 to 8.6% in 2016. Thus the state of Texas illegally denied special education services to tens of thousands of students who were eligible for them. The Department has told the state to come up with a plan to address student who were denied special education services.

Sec. DeVos issued a statement noting that “Far too many students in Texas had been precluded from receiving supports and services under IDEA.” She said she is working with Texas education Commissioner Mike Morath “on resolving these issues.” Gov. Gregg Abbott has directed Commissioner Morath to come up with a draft action plan within a week. He also requested legislative recommendations to ensure compliance with IDEA.

https://www2.ed.gov/fund/data/report/idea/partbdmsrpts/dms-tx-b-2017-enclosure.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

<http://www.houstonchronicle.com/denied/>

<https://www.nytimes.com/2018/01/11/us/texas-special-education.html>

5. New Resources for Educators

- **The U.S. Commission on Civil Rights issued a report *Public Education Funding Inequity in an Era of Increasing Concentration of Poverty and Resegregation*** including recommendations for Congressional action. <http://www.usccr.gov/pubs/2018-01-10-Education-Inequity.pdf>
- **Education Commission of the States issued a report comparing 50 state ESSA accountability systems** <https://www.ecs.org/50-state-comparison-states-school-accountability-systems/>

- **Teacher Shortages: Lowering Standards is not the Answer**

https://www.washingtonpost.com/news/posteverything/wp/2018/01/09/americas-teacher-shortage-cant-be-solved-by-hiring-more-unqualified-teachers/?tid=ss_mail&utm_term=.30086f8498f5

As we celebrate Martin Luther King's legacy this weekend, I think his words hold particular resonance these days: ***“Our lives begin to end the day we become silent about things that matter.”*** If you read this blog, I know you are speaking up and I add my voice to yours.

Washington Update will be taking a break next week, January 19. I'll be leading a group of doctoral students as they look behind the policy making curtain in DC. I'll also be advocating with colleagues on behalf of great teachers and leaders who serve students with disabilities. I'll be back January 26.

See you on twitter @janewestdc

Best,

Jane