

Washington Update July 13, 2018

Dear Colleagues:

The heat is on in Washington! It's been a busy week as Congress sprints to the August recess – at least for the House. Majority Leader McConnell has promised to keep the Senate in town most of August to finish its business and move forward the pressing business of confirming President Trump's new nominee to the Supreme Court.

1. Appropriations Bill for FY 2019 Passes out of House Committee

In a marathon all day (and much of the night) markup, the House Committee on Appropriations finally approved by a 30-22 vote a spending bill for Labor/HHS/Education funding. The largest and most controversial of all 12 spending bills, this one always draws multiple high-profile controversial amendments – and this year did not disappoint. The bill did not reduce spending in any of the education programs from the subcommittee bill and adds \$73 million for education programs (above and beyond the subcommittee bill) bringing the total for the Department of Education to \$71 billion. Education programs which received new funding in the committee bill include:

- \$47 million for school safety national activities
- \$13 million for Child Care Means Parents in School
- \$10 million for HBCUs
- \$3 million for American history and civics national activities

In addition, a number of education-related amendments were adopted including student loan deferment for cancer patients and new conditions for paying performance bonuses for student loan collection.

With both the House and Senate Committees finished with their Labor/HHS/Education spending bills, the next step is for each body to take them to the floor. The Senate is considering packaging the Labor/HHS/Education spending bill with other spending bills, and bringing them to the floor as a “minibus” for consideration simultaneously. With the September 30 deadline looming, the pressure is on. Most budget watchers continue to think there will be a short term continuing resolution which will punt final decision making about spending until after the election in November.

Expert budget watcher Stan Collender has predicted that the additions of the Supreme Court opening and the EPA Secretary opening (after Sec. Pruitt's resignation) increase the chance of a government shutdown to over 50% this fall. He noted that the President would be tempted to veto a short term Continuing Resolution if his nominees for Supreme Court and EPA have not been confirmed.

See: <https://www.rollcall.com/news/politics/appropriations-labor-hhs-education>

See: <https://thebudgetguy.blog/2018/07/08/pruitt-and-kennedy-leaving-increases-the-chances-of-government-shutdown-to-over-50/>

2. Education Groups React to Trump's Nomination to the Supreme Court

President Trump nominated Brett Kavanaugh, a judge on the DC Circuit of Appeals, to replace retiring Justice Anthony Kennedy sparking immediate negative response from many education and civil rights organizations. Kavanaugh's history in relation to education is sparse, but revealing. In particular:

- **On school choice:** He supported Justice Rehnquist's efforts to reverse the Supreme Court's efforts at "erecting a strict wall of separation between church and state" – particularly in relation to schools. This statement is in a December essay he wrote for the American Enterprise Institute. In 2000 he predicted school vouchers would one day be upheld by the Supreme Court.
- **On Affirmative Action:** He co-authored a 1999 amicus brief arguing that a Hawaii law allowing only Native Hawaiians to vote in elections for the Office of Hawaiian Affairs was unconstitutional because it was race-based. The Supreme Court later affirmed this argument.
- **On School prayer:** In 1999 he co-authored an amicus brief arguing that a high school's use of the public address system for student-initiated prayers during football games was constitutional. The Supreme Court later rejected this argument.

The National Education Association, the American Federation of Teachers, the Leadership Conference on Civil and Human Rights and others issued strong statements opposing Kavanaugh. Lilly Eskelsen Garcia, NEA president, called him a "rubber stamp" for the agenda of Trump and Education Secretary DeVos. Senate Majority Leader McConnell is planning for a confirmation vote in the Senate before the November elections.

See: <https://www.politico.com/newsletters/morning-education/2018/07/10/a-dig-through-kavanaughs-record-on-education-finds-plenty-of-material-274850>

3. US Department of Education Proceeds with De-Regulation Agenda

President Trump has called for all federal agencies to cut back regulations and related policy directives, such as guidance. The Department of Education is contributing to that effort. Two roll backs were announced last week and another is under consideration.

- **IDEA Disproportionality Regulation:** OCR data provides evidence year after year that students of color are disproportionately served by special education. The regulations were designed to create a standard metric for states to use in determining disproportionality as

recommended by a GAO study on the topic. The Department of Education delayed implementation of this regulation for two years, arguing that it needs further study. The Council of Parent Attorneys and Advocates has filed a lawsuit against Sec. DeVos and Asst. Sec. for OSERS, Johnny Collett, arguing that the delay violates the Administrative Procedures Act. The lawsuit noted that the Department failed to provide a “reasoned explanation” for the delay, failed to consider the potential costs to society and limited the number of comments it considered.

- **Racial Diversity in K-12 Schools and Higher Education:** The Trump Administration rescinded Obama-era guidance related to the use of race in college admissions and Justice Department/Education Department documents encouraging public schools to expand diversity through a range of approaches.
- **Discipline Guidance:** Developed to address the disproportionate use of discipline procedures (such as suspension and expulsion) with students of color and students with disabilities, this guidance is on the chopping block, particularly as the Commission on School Safety seems to implicate it in relation to the Parkland shootings. However, a Florida Commission report released this week revealed that the district’s discipline policies had nothing to do with the shooting. Also this week, several education groups, including the KIPP Foundation, the Council of Great City Schools and the National Association of Secondary School Principals submitted a letter to Sec. DeVos and AG Sessions urging that the guidance stand.

See: <https://www.federalregister.gov/documents/2018/07/03/2018-14374/assistance-to-states-for-the-education-of-children-with-disabilities-preschool-grants-for-children>

See: http://educationpost.org/devos-is-stripping-away-civil-rights-protections-for-students-with-special-needs/?utm_source=Education+Post+Mailing+List&utm_campaign=9c18ef64eb-Weekly+Newsletter+091517+COPY+01&utm_medium=email&utm_term=0_1b7a185fca-9c18ef64eb-266514897

See:

<https://mobile.edweek.org/c.jsp?cid=25920011&item=http%3A%2F%2Fapi.edweek.org%2Fv1%2Fblog%2F147%2Findex.html%3Fuuid%3D76861&cmp=soc-twitter-shr>

4. New Resources for Educators

- **America’s Promise Alliance** issued *Disciplined and Disconnected* reporting on how suspensions and expulsions lead students with disabilities and students of color to disconnect from school. See: <http://gradnation.americaspromise.org/report/disciplined-and-disconnected>
- **Bellweather Education Partners** has released a new website with 54 human-centered research methods that can be used to develop policies responsive to those most affected by them. See: <https://designforedpolicy.org/>

- **University Council for Educational Administration** released *Impact of Principal Turnover* noting that principal turnover is most likely to effect low-income students of color and that student achievement decreases following a principal's departure. See: <http://3f17112qoj4l3y6ep2tqpwra.wpengine.netdna-cdn.com/wp-content/uploads/2018/06/Policy-Brief-2018---4-Impact-of-Principal-Turnover.pdf>
- **The Center for American Progress** released *How to Give Teachers a \$10,000 Raise* recommending a new tax credit that would increase teacher salaries by up to \$10,000 per year. See: <https://www.americanprogress.org/issues/education-k-12/reports/2018/07/13/453102/give-teachers-10000-raise/>
- **The Center for American Progress** released *Trump's Family Incarceration Policy Threatens Healthy Child Development* See: <https://www.americanprogress.org/issues/early-childhood/reports/2018/07/12/453378/trumps-family-incarceration-policy-threatens-healthy-child-development/>

I spent this week with 300 passionate special education advocates from around the country, including over 25 doctoral students. Organized by CEC and CASE, we took our messages to lawmakers urging full funding for IDEA, investing in social-emotional learning and effective school climate strategies, keeping public funds in public education (aka no vouchers) and addressing the critical teacher shortage in special education. We urged co-sponsorship of the STRIVE Act S. 2370 and HR 4914 – a comprehensive approach to addressing the teacher shortage and expanding the pipeline for teachers of color. Check it out! It's what we need!

All the best,

Jane