

## Washington Update October 28, 2017

Dear Colleagues:

With a budget resolution now in place, Congress turns its attention to tax reform – a political “must do” for Republicans before they head into next year. The potential implications for education are significant. And don’t forget December 8 is the deadline to complete a funding bill for education (and everything else) for the remainder of FY 2018. There are only 20 days left when both the House and Senate will be in session before the Dec. 8 axe falls. We are headed into a busy pre-holiday season.

### **1. With A Budget Agreement Secured, Congress Looks to Move a Tax Reform Bill**

This week the House completed work on a budget resolution, setting the stage for passage of a tax reform bill which will only need the support of Republicans in order to become law. The budget resolution which passed the House with a close vote of 216-212 included 20 Republicans voting against it as well as all Democrats. (The same budget resolution passed the Senate earlier this month.) The tax cut bill, which is likely to be revealed next Wednesday, will trim taxes by as much as \$1.5 trillion over the next decade. The House and Senate have adopted an ambitious timeline, hoping to complete work on the bill by Thanksgiving!

How those cuts will be paid for is a matter of great concern for those in the education community and beyond. There are at least three areas for educators to focus on:

- There are about \$31 Billion worth of provisions in the tax code that directly affect education, \$29.5 Billion of them in higher education. They could be at risk.
- SALT: State and Local Tax deduction: because of this deduction funds are available to benefit K-12 schools; this provision brings \$17 Billion per year to K-12 schools. It could be on the chopping block. SALT being in jeopardy is a key reason why 20 Republicans in the House voted against the Budget Resolution.
- If tax cuts are adopted without commensurate savings in expenses the deficit will grow dramatically. This will create pressure down the road for Congress to cut discretionary programs, such as education, to address the exploding deficit.

Putting the tax reform bill together and passing it is no small task, exacerbated by the short timeline and the intense political pressure. Speaker of the House Paul Ryan (R-WI) noted that hundreds of lobbyists would soon be descending on Capitol Hill to make their case as to why certain tax provisions are critical for their industry or their cause. He compared it to a white-water rafting trip where “we’re about to go through Class 5 rapids, which is the biggest rapid you can go through. We’ve got to make sure everybody stays in the boat, and we get the boat down the river.”

See: [How Governments Support Higher Education Through The Tax Code](#)

See: <https://www.pbs.org/newshour/education/analysis-5-ways-tax-reform-affect-educators>

<https://www.americanprogress.org/issues/education-k-12/reports/2017/10/26/441418/trickle-down-cuts-to-education/>

## **2. Department of Education Seeking Comments on Discretionary Priorities**

The Department of Education has issued proposed priorities for its competitive grants. They are out for public comment, with comments being due November 13. These priorities, which are traditionally issued by the Department, apply only to discretionary funds, which total about \$4 billion. The vast majority of the Department's spending is distributed through formula grants or to students based on eligibility (e.g. student loans and Pell grants).

The priorities are generally used to further focus competitive grant proposals by, for example, awarding additional points for those who address the priorities. The 10 priorities are broad and encompass expanding school choice, promoting innovation and efficiency, developing students as citizens, meeting the unique needs of students with disabilities and those with gifts and talents, expanding computer science, promoting effective instruction in classrooms and schools and improving school climate.

The proposed priorities include proposed definitions, such as one of "educational choice" which encompasses private schools, private online providers, private tutoring providers, community or faith-based organizations and private education providers.

See: <https://www.federalregister.gov/documents/2017/10/12/2017-22127/secretarys-proposed-supplemental-priorities-and-definitions-for-discretionary-grant-programs>

## **3. Department of Education Begins to Deliver on Reducing Regulatory Burden**

In complying with the Administration-wide effort to reduce regulatory burden, the Department of Education indicated it will be rescinding almost 600 pieces of subregulatory guidance which are described as out of date. The rescissions are as follows:

- Office of Elementary and Secondary Education (OESE): from 228 guidance documents, 97 will be withdrawn
- Office of Special Education and Rehabilitative Services (OSERS): from 169 documents, 72 will be withdrawn
- Office of Postsecondary Education (OPE): from 1171 documents, 398 will be withdrawn

Early this week the announcement of the extinction of 72 documents from OSERS provoked an outcry from the disability community and some Democrats concerned about what would be lost in the rescissions. Rep. Bobby Scott (D-VA) called it “the latest in a series of disturbing actions taken by the Trump Administration to undermine civil rights for vulnerable Americans.” Special education advocates scrambled to review the 72 documents and find the more current documents which replaced them. The National Disability Rights Network wrote to Acting Assistant Secretary of OSERS Kim Richey recommending that in the future a specific rationale accompany each decision for rescission and include the guidance which has superseded the rescinded documents. Such an approach would enhance transparency they noted.

Following the announcement of the 72 guidance rescissions, a draft federal register notice was leaked which indicated that Sec. DeVos was considering delaying or ending the special education disproportionality regulation which is intended to ensure that minority students are not inappropriately classified as needing special education. The Department indicated that the draft federal register notice had been revised, but the new version has not yet been made public. This leaked draft provoked a twitter outcry from Democratic legislators.

- Sen. Tim Kaine (D-VA): “why is it that key civil rights protections for students always seem to be on the chopping block for @BetsyDeVosED?”
- Sen. Bob Casey (D-PA): “seems Betsy DeVos is on a mission to decimate basic protections for students at all levels”
- House Minority Leader Nancy Pelosi (D-CA): “Instead of continuing this Admin’s civil rights attacks, @BestsyDeVosDC should be expanding opportunities for all. Clearly, she is failing.”

Sen. Patty Murray (D-WA), ranking member of the Senate HELP Committee issued a statement noting that “There can be no further question: Secretary DeVos is dead set on rolling back all the progress we’ve made for our children of color and students with disabilities. If Secretary DeVos indeed moves forward with this action, she will be pushing IDEA’s promise of educational equity further out of reach, worsening the school to prison pipeline and so much more – with students of all ages and backgrounds paying the price.”

Additional announcements about regulatory roll backs are expected from the Department over the next several weeks.

Department announcement:

<https://content.govdelivery.com/accounts/USED/bulletins/1c07774>

List and reasons for OSERS rescissions:

<https://www2.ed.gov/policy/speced/reg/eo13777/eo13777-osers-outdated-guidance-list-reasons-20171020.pdf>

Summary of phone call regarding OSERS rescissions: <http://www.ndscenter.org/wp-content/uploads/Summary-of-OSERS-stakeholder-call-10-24-17.pdf>.

COPPA statement on OSERS rescissions: <https://copaa.site-ym.com/news/371171/COPAA-Statement-on-OSERS-Decision-to-Rescind-Guidance-Documents-.htm>

Bobby Scott statement: <https://democrats-edworkforce.house.gov/media/press-releases/scott-statement-on-rollback-of-guidance-on-special-education->

#### 4. **Personnel Coming and Going**

President Trump has nominated Kenneth Marcus to be the Assistant Secretary for Civil Rights at the Department of Education. He must be confirmed by the Senate and will likely face a barrage of questions about changes in civil rights policy, particularly Title IX roll backs, since President Trump has taken office.

Read about him here: [https://en.m.wikipedia.org/wiki/Kenneth\\_L.\\_Marcus](https://en.m.wikipedia.org/wiki/Kenneth_L._Marcus)

Chris Minnich, long time executive director of the Council of Chief State School Officers, is stepping down on January 12 to return to Oregon, where he is from. He will be the head of the Northwest Evaluation Association (NWEA), a non profit focusing on assessments.

See:

[http://www.ccsso.org/News\\_and\\_Events/Press\\_Releases/CCSSO\\_Executive\\_Director\\_Chris\\_Minnich\\_to\\_Step\\_Down.html](http://www.ccsso.org/News_and_Events/Press_Releases/CCSSO_Executive_Director_Chris_Minnich_to_Step_Down.html)

#### 5. **New Resources for Educators**

- **The Brookings Institute** is out with new maps illustrating the widespread teacher diversity gaps. While minority students are about half of the student population, they are only 20% of public school teachers. <https://www.brookings.edu/blog/brown-center-chalkboard/2017/10/23/teacher-diversity-gaps-hit-close-to-home-for-nearly-everyone/>
- **The New Teacher Center** is out with a report on the significant impact school leadership, including teacher leadership, has on student success. <http://info.newteachercenter.org/school-leadership-report>
- **The National Center on Learning Disabilities** breaks down the multiple types of initiatives (vouchers, ESAs, tax incentives etc.) used to promote privatization of schooling. <https://www.nclld.org/archives/action-center/what-we-ve-done/school-vouchers-education-savings-accounts-and-tax-incentives->

[implications-and-considerations-for-students-with-disabilities#utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=octvoucherpromo](https://www.nclld.org/archives/action-center/what-we-ve-done/school-vouchers-education-savings-accounts-and-tax-incentives-implications-and-considerations-for-students-with-disabilities#utm_source=newsletter&utm_medium=email&utm_campaign=octvoucherpromo)

- **2014 Oregon Teacher of the Year Brett Bingham** tells his compelling and courageous story of being an exemplary teacher, yet being fired for being gay. Yes this does happen. [https://www.nclld.org/archives/action-center/what-we-ve-done/school-vouchers-education-savings-accounts-and-tax-incentives-implications-and-considerations-for-students-with-disabilities#utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=octvoucherpro](https://www.nclld.org/archives/action-center/what-we-ve-done/school-vouchers-education-savings-accounts-and-tax-incentives-implications-and-considerations-for-students-with-disabilities#utm_source=newsletter&utm_medium=email&utm_campaign=octvoucherpro)
- **2014 Georgia Teacher of the Year Jemelleh Coes**, now a doctoral student and teacher educator, offers powerful lessons in preparing teacher candidates for social justice and equity.

See: <http://www.nnstoy.org/stoyblog/weve-learned-teaching-teacher-candidates-equity/>

Wishing you a wonderful weekend. I will be on a silent retreat listening to that voice in my head!

See you on twitter @janewestdc

Best,

Jane