

## **Washington Update September 7, 2018**

Dear Colleagues:

Happy September! I hope you are refreshed and recharged after a fine respite this summer. I know I am and I am raring to go! It's already a wild and crazy September in DC with rampant speculation about the mysterious Trump insider OpEd author and all eyes glued to the Kavanaugh SCOTUS hearings in the Senate. And it's only been three days!

### **1. Can Congress Beat the September 30 Deadline for Funding the Government?**

In a surprising move, the House has agreed to go to conference with the Senate on the Labor/HHS/Education bill. This is a remarkable development as the House has not even passed their bill, only the House Appropriations Committee adopted it. In another fascinating move (before the August recess) the Senate adopted their version of the Labor/HHS/Education spending bill coupling it with the massive Defense spending bill. Coupling these two bills together may offer additional leverage for the Labor/HHS/Education appropriations bills to pass, as budget hawks and conservatives who typically challenge spending in the Labor/HHS/Education bill generally support the Defense spending bill. So by packaging the two bills together Members of Congress would have to take one vote – yay or nay – on the package. Few Members of Congress in either party will want to vote against Defense spending.

Time is a big challenge. There are only 11 days left where both the House and Senate will be in legislative session. September 30 marks the end of the 2018 fiscal year and represents the deadline for passing FY 2019 funding bills. That's not much time to accomplish a conference and move the massive spending bill to the President's desk. Many think a Continuing Resolution may be in the cards to keep last year's level of spending in tact until after the November 6 midterm elections. However, House Republicans have already named conferees for the bill – so that is an important sign of movement toward conference.

So what's at stake for education spending? The Senate bill includes \$2 billion more than the House bill – but the vast majority of that goes to HHS, not to education. The House has agreed that this will be the final level of spending that will be in the bill that goes to the President for signature. Most key programs for education are funded at last year's level. The two bills include different levels of spending for some key programs of concern to educators and these will be the targets of specific advocacy. (NOTE: THIS CHART ONLY INCLUDES PROGRAMS FOR WHICH THERE ARE **DIFFERENT LEVELS OF FUNDING IN THE TWO BILLS.**) For example:

Program	Current Level of \$	House Bill	Senate Bill
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Title I ESSA	\$15.76 billion	\$15.76 billion	\$15.885 billion
Title IV A ESSA	\$1.1 billion	\$1.2 billion	\$1.225 billion
IDEA Part B	\$12.278 billion	\$12.328 billion	\$12.403 billion
IDEA State Personnel Development	\$39 million	\$41 million	\$39 million
IDEA Personnel Preparation	\$84 million	\$89 million	\$84 million
Office of Civil Rights	\$117 million	\$117 million	\$125 million

As always, on the horizon is the threat of another government shutdown if new funding bills cannot be passed. Congressional leaders met with President Trump this week urging the avoidance of a shutdown. While the President seemed to concur initially, he later said “if it happens, it happens.” The big sticking point, as it has been in the past, is about funding for the border wall. “If it’s about border security, I’m willing to do anything,” President Trump said.

The next two weeks will tell the tale as to whether Congress will make the September 30 deadline. I’m not a betting woman, but if I were.....well.....let’s leave it as a mystery! ☺

See: <https://www.politico.com/story/2018/08/23/senate-spending-package-shutdown-750805>

See: <https://www.defensenews.com/congress/2018/09/03/as-lawmakers-return-to-work-shutdown-fears-loom/>

## 2. Arming Teachers and Federal Funds

Declaring that school districts have the flexibility to use federal funds under ESSA to arm teachers, Secretary DeVos generated a strong backlash from educators, civil rights activists and Democratic Members of Congress this week. At issue is the \$1.1 billion Student Support and Academic Enrichment Grants program – Title IV A of ESSA -- a flexible grant program. School districts in Oklahoma and Texas inquired with the Department of Education as to whether they could use these funds to arm school personnel. Sec. DeVos said it’s up to them. Reaction was fast and furious.

Sec. DeVos received sign on letters from 44 Senate Democrats and 174 House Democrats decrying the decision. Democratic ESSA authors Rep. Bobby Scott (D-VA) and Sen. Patty Murray (D-WA) disagreed with DeVos’ position that ESSA allows the use of Title IV A ESSA fund to arm educators. They note that the statute defines “drug and violence

“prevention programs” as creating school environments “free of weapons.” Republican education committee chairs Rep. Virginia Foxx (R-NC) and Sen. Lamar Alexander (R-TN) see it differently. Chairwoman Foxx said Title IVA was purposefully designed to give states and school districts autonomy in decision making. While he has noted that he does not think arming teachers is a great idea, Sen. Alexander concurred that ESSA gives local communities the authority to determine if they want to use those funds to purchase guns for school staff and/or provide arms training.

Many education organizations have issued statements opposing arming educators. A groundswell of concern is generating a push to include a provision on the Labor/HHS/Education appropriations bill (see article above) which would prohibit the use of Title IVA ESSA funds for the purpose of arming or training educators. There is also talk of a broader prohibition on ALL federal funds. In other words, not only would ESSA funds be banned from supporting guns for educators, so would funds from any other federal source, e.g. Department of Justice, Department of Homeland Security etc. Whether or not such a provision would make it into an appropriations bill remains to be seen.

See: <https://www.murray.senate.gov/public/index.cfm/newsreleases?ID=CCE87002-C610-4026-B268-6D3683F345B9>

See: [http://blogs.edweek.org/edweek/campaign-k-12/2018/09/guns\\_teachers\\_states\\_DeVos\\_federal.html](http://blogs.edweek.org/edweek/campaign-k-12/2018/09/guns_teachers_states_DeVos_federal.html)

### **3. Education/Disability Perspectives on Nomination of Kavanaugh for SCOTUS**

The Senate Committee on the Judiciary is into day four of hearings on Brett Kavanaugh, President Trump’s nominee for the Supreme Court. Contentious issues abound, including several of concern to educators and disability rights supporters. Today’s hearing features public witnesses – some supporting Kavanaugh and some opposing. Among those speakers opposing Kavanaugh are Liz Weintraub, a disability advocate with a disability, Melissa Smith, a high school teacher in Oklahoma and Aalayah Eastmon, a student survivor of the Parkland shooting.

The Bazelon Center for Mental Health Law has analyzed Kavanaugh’s record and identifies a number of issues of concern to people with disabilities, including access to health care, self-determination, employment discrimination, equal educational opportunities and access to justice and voting rights. Educators’ concerns include the expansion of vouchers and roll backs of equity gains.

The Committee is planning to vote on the Kavanaugh nomination September 20 and move his nomination to the Senate floor the following week, with the hope of having him

in place by October 1 when the Court begins its next session. Expect loud contentious debate and protest to continue.

LCCR letter: <http://civilrightsdocs.info/pdf/policy/letters/2018/Letter-of-opposition-to-Brett-Kavanaugh-9.3.18.pdf>

For copies of all testimony provided today at the hearing:

<https://www.judiciary.senate.gov/meetings/nomination-of-the-honorable-brett-m-kavanaugh-to-be-an-associate-justice-of-the-supreme-court-of-the-united-states-day-4>

Bazelon center analysis: <http://www.bazelon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

NEA position: <https://www.aft.org/press-release/aft-opposes-kavanaugh-nomination>

#### 4. New Resources for Educators

- The American Association of Colleges for Teacher Education has released *Colleges of Education: A National Portrait* <https://aacte.org/resources/colleges-of-education-a-national-portrait>
- The Economic Policy Institute has released *The Teacher Pay Penalty Has Reached a New High* <https://www.epi.org/publication/teacher-pay-gap-2018/>
- PDK has issued their annual poll *PDK 2018 Poll of the Public's Attitude toward Public Schools*. A couple of findings: 54% of Americans would not want their child to become a public school teacher; 73% would support teachers in their communities if they went on strike for higher salaries. See: <http://pdkpoll.org/results>
- Houston Chronicle article *Texas Expects Thousands More Special Education Students: But Where are the Teachers?* <https://www.houstonchronicle.com/news/politics/texas/article/Texas-expects-thousands-more-special-education-13207693.php>
- Learning Policy Institute has released: *Taking the Long View: State Efforts to Solve Teacher Shortages by Strengthening the Profession* See: <https://learningpolicyinstitute.org/product/long-view-report>

That's all for now. Have a great weekend! See you on twitter @janewestdc

Best,

Jane

