

Washington Update June 19, 2020

Dear Colleagues:

The murder of George Floyd and the aftermath of protests continues to rock our world, as well it should. Every day I am astounded by my lack of knowledge about the history of racism in our country. I had never known, until now, that Juneteenth was a special day – the day that slavery ended in our country. The Library of Congress has compiled a compelling history: [The Birth of Juneteenth; Voices of the Enslaved](#). Juneteenth is a holiday in several states and more governors are making such declarations. Sen. Kamala Harris (D-CA) and Sen. John Cornyn (R-TX) have introduced bills to make June 19th a national holiday. So happy Juneteenth!

1. The Supreme Court Speaks on LGBTQ Rights and DACA: Implications for Education

Two surprising Supreme Court decisions this week will impact education. In declaring that Title VII of the [Civil Rights Act applies to LGBTQ](#) people in employment settings, the court affirmed a prohibition against discrimination on the basis of sexual orientation or gender identity. Twenty-two states currently have such laws on the books. The new ruling will apply to education settings where teachers and other employees have faced firing because of their sexual orientation. While most educators applauded the decision, some religious colleges raised concerns. Some such colleges have rules against hiring LGBT employees and consider those policies a matter of religious liberty. Provisions in current law allow for exemptions for religious employers, including educational institutions. The decision acknowledges the intersection of this decision with religious liberty concerns and reflects that how existing policy will interact with the new decision remains to be seen. The law will likely generate a re-visiting of some K-12 policies, as well, including the Trump administration's roll back of requirements related to the use of bathrooms by transgender students.

The [second decision](#) struck down the Trump Administration's end to DACA – the Deferred Action for Childhood Arrivals program. Begun by President Obama in 2012, DACA temporarily protects about 700,000 immigrants from deportation. It applies to people who were brought to the US as children and without legal status. People must enroll in the program, which offers protection for two years at a time and is renewable. About 15,000 K-12 educators are DACA recipients. In higher education 450,000 students are eligible to participate in the program, however not all do. It is estimated that 200,000 front line and essential workers during the pandemic are DACA recipients. The Trump Administration had moved to end the program.

The court found that the Department of Homeland Security (DHS) failed to comply with procedural measures which include considering hardships which DACA recipients would face should the program be terminated. The Court sent the program back to DHS to reconsider. Thus, the decision was made on procedural, not substantive grounds. The Trump administration could move to rescind the program again; however, it is doubtful that there will be time before the election.

In a related development, [federal judges](#) in two separate cases ordered Sec. DeVos to stop denying coronavirus aid to students who do not qualify for federal financial aid, including DACA students. Sec. DeVos had interpreted the CARES Act to mean that only college students receiving federal financial aid were eligible for CARES funds. This policy left out many students in financial need. The court decisions are in force in California and Washington and may impact Sec. DeVos interpretation of the law.

2. Congressional Rush to August Recess

As the election year closes in on Congress, the agenda is piled high with matters of great significance to educators. These include:

- **[Police Reform:](#)** The House Judiciary Committee passed a Democratic reform bill with a partisan vote of 24-14. It will be on the House floor next week. The Senate has introduced both Republican and Democratic bills and plans to take action before July 4. President Trump has likewise announced policy changes through an executive order. Provisions affecting policing and schools are in the mix.
- **[Infrastructure Bill:](#)** Congress and the Trump White House have intermittently touted the importance of a large new investment in infrastructure. The House plans to pass their \$1.5 trillion version of the bill before July 4, including \$100 billion targeted to high poverty schools with facilities that pose health risks to students and staff and expanding internet access.
- **[FY 2021 Appropriations:](#)** With the end of the fiscal year -- September 30 -- fast approaching, the pressure is on to enact new funding bills. None of the 12 bills have been taken up yet by either the House or the Senate. While no one actually believes all -- or probably any, -- of these bills will cross the finish line, the House is poised to move on them in rapid fire. Appropriations Committee Chair Rep. Nita Lowey (D-NY) announced 12 subcommittee markups at two-hour intervals on July 6, 7, 8 and 9. The bill which funds education is scheduled for July 7 at 5 pm. The bills are likely to feature a range of measures to address the pandemic and police reform. Having previously announced a schedule for markups in the Senate, Chair Sen. Shelby (R-AL) retracted the schedule noting Democrats insistence on offering amendments related to the COVID pandemic and racial injustice.
- **[Next COVID Relief Bill:](#)** The House passed the \$3 trillion HEROES Act on May 15. The next move will take place in the Senate, which is likely to be after the July 4 recess. President Trump has indicated that he would like to see at least a \$2 trillion bill. Educators are actively pressing for additional funding to take the place of state budget cuts and cover additional expenses of opening up schools during the pandemic.

3. Is the Nation Ready to Return to School? House Members Hear from Educators as Superintendents Report on Readiness

The House Committee on Education and Labor held a remote hearing on June 15, [*Budget Cuts and Lost Learning: Assessing the Impact of COVID-19 on Public Education*](#). While the Committee room was physically open, Committee members had the option of participating virtually. It appeared that all Democrats were virtual and all Republicans -- including ranking member Virginia Foxx (R-NC) -- were physically present, answering the roll call with "Present in the Committee room," rather than the standard "present." Republicans have repeatedly voiced the belief that the House should be physically present during business, while Democrats believe virtual options represent best practice during the pandemic.

Witnesses included Michael Leachman from the Center on Budget and Policy Priorities; Rebecca Pringle, from the National Education Association; Mark Johnson, Superintendent of Public Instruction for North Carolina; and Eric Gordon, CEO of the Cleveland Metropolitan School District. Witnesses described state shortfalls that could be as great as \$615 billion over the next three years. While nearly 500,000 public education jobs have already been lost, as many as 1.9 million could disappear over the next three years -- when higher education is included. The Cleveland school district faces a \$127 million loss in state and local revenue in the year ahead, about 25% of the district's budget.

While Committee Chairman Bobby Scott (D-VA) urged Congress to adopt the HEROES Act, which includes about \$90 billion for education, Ranking Member Rep. Virginia Foxx (R-NC) said it would be irresponsible to rush to throw money at a problem which is not fully understood. "Money is not a cure-all solution, and it is irresponsible to blindly throw more money at this situation," she said.

On June 15, AASA, the School Superintendents Association, issued the [results](#) of a nationwide survey of its members regarding school reopening during COVID. Ninety-four percent of respondents said they had not announced when schools would reopen and resume in person instruction. Concerns cited include having enough space to comply with social distancing, covering COVID-19 related costs such as staggered schedules, costs related to delivering special education and related services and increased transportation costs to allow for social distancing. Seventy-eight percent of respondents said that provision of special education and related services was the most difficult to provide in an equitable fashion. Fifty-two percent cited equitable access to online learning as challenging.

Dan Domenech, head of AASA summed up the situation: "I mean, it's like a lose-lose situation. You have parents that are demanding the schools to open. And then you have parents that are saying we're not going to send our kids to school. You have teachers that are saying we're not going to go back to work. Districts that are saying, with these budget cuts, we're going to have to lay off teachers."

On Monday, June 22 at noon, the House Committee on Education and Labor will hold another hearing [Inequities Exposed: How COVID-19 Widened Racial Inequities in Education, Health and the Workforce.](#)

4. President Trump Calls School Choice the Civil Rights Issue of Our Time

In a statement prior to signing his executive order on reforming policing, President Trump praised his administration's [education policy record](#) in addressing racial inequality. He noted his support for the FUTURE Act, which expands funding for Historically Black Colleges and Universities and described school choice as "[the civil rights statement of the year](#)." He said "We're fighting for school choice...Frankly, school choice is the civil rights statement of the year, of the decade, and probably beyond – because all children have to have access to quality education. A child's zip code in America should never determine their future, and that's what was happening...We have tremendous opposition from people that know they shouldn't be opposing it. "

Sen Ted Cruz (R-TX) followed up the President's comments with a call for a hearing on his federal tax credit legislation which would expand school choice, S. 634. He said he would like to see the Committee on Finance to move forward on consideration of the bill.

5. New Resources for Educators

- **The National Governor's Association** released [*K-12 to Postsecondary Transitions During COVID-19: Opportunities for Governors and States*](#)
- **Association of Public and Land Grant Universities and ASPIRE Alliance, affiliated with the University of Wisconsin-Madison,** issued [*Leveraging Promising Practices: Improving the Recruitment, Hiring and Retention of Diverse and Inclusive Faculty*](#)
- **The Center for American Progress and the Fordham Foundation** issued [*A Moonshot for Education: A Federal Policy Proposal to Spur Effective Research and Development for K-12 Education*](#)
- **The Hope Center** has put forward [*#REALCOLLEGE During the Pandemic: New Evidence on Basic Needs Insecurity and Student Well Being*](#)

- **The Aspen Institute Education & Society Program** released [“*Supporting Students to be Independent Learners: State and District Actions for the Pandemic Era,*”](#) that outlines recommendations for learners during the pandemic.
- Led by the **Leadership Conference on Civil and Human Rights** 295 organizations have signed on to [*Civil Rights Principles for Safe, Healthy and Inclusive School Climates*](#)

Until next week, take good care of yourself!

Best,

Jane