

Washington Update March 9, 2018

Dear Colleagues:

It's been busy in Washington for the last two weeks. An early case of March Madness!

1. Appropriations – March 23 Deadline Looms

March 23 is the deadline for the Congress to complete action on all 12 FY 2018 appropriations bills. (Note that fiscal year 2018 is half over!) News continues to dribble out about how the money will be distributed between the 12 appropriations bills. Not surprising, the Labor/HHS/Education bill seems to be the most difficult one to finalize, because:

- 1) it includes more money than any of the other bills;
- 2) it has to include much of the new spending required by the budget agreement, such as \$3 billion to address the opioid crisis and \$2 billion to address college cost and access to higher ed;
- 3) it is a magnet for controversial policy riders such as abortion-related provisions; and
- 4) last, but not least, CHIMPS.

“What in the heck are CHIMPS?” you might ask! Well suffice it to say CHIMPS are a strategy used by funders to increase discretionary spending. CHIMPS stands for Changes in Mandatory Programs and means that new funds can be generated for other spending when mandatory programs are rescinded, delayed or otherwise limited. Republicans are reported to have demanded that CHIMP savings be limited to \$14 billion for all the bills--\$5.1 billion less than in 2017. The Labor/HHS/Education bill is being asked to absorb most of the reduction which, when added to the new required spending noted above, would not leave much for other programs.

So, bottom line – the additional funds we thought we might have for education programs may be evaporating. But we don't really know for sure. The House has indicated that it may bring up the bill – called an Omnibus – which would include all 12 appropriations bills (Labor/HHS/Education too)—early next week. Another possibility is that they include 11 bills in the Omnibus and leave the Labor/HHS/Education bill for later. This is generally not a good scenario, as there is little bargaining to be done within the confines of the one bill. Another possibility is that the Labor/HHS/Education funding bill becomes yet another continuing resolution – meaning most accounts are the same as they were in FY 2017, or flat funding. But how the new budget agreement would affect such a CR is a big question, and repeated CR's are generally disliked by everyone.

Complicating this situation further is the fact that Senate Appropriations Committee Chairman Thad Cochran (R-MS) announced that he will leave Congress on April 1 after 40 years in office. He cited health challenges. He is the 10th longest serving Senator in the history of the Senate. It is likely that Sen. Richard Shelby (R-AL) would serve as interim chair. A few weeks ago House Appropriations Committee chair Rodney Frelinghuysen (R-NJ) announced his upcoming retirement.

And Congress is scheduled to go out on a week-long spring recess beginning Monday March 25 – the Monday after the Friday, March 23 deadline for the spending bill. Members of Congress will be eager to get back to their districts (remember, election year!), so this motivation may take it over the finish line.

Meanwhile the FY 2019 appropriations process is underway. On March 20, Sec. DeVos is tentatively scheduled to testify about the President's budget proposal to the House Subcommittee on Labor/HHS/Education Appropriations.

To become an expert on CHIMPS: <https://www.cbpp.org/research/federal-budget/restricting-use-of-chimp-savings-would-backtrack-on-bipartisan-budget-deal>

2. Legislators Struggle to Respond to the Shooting at Marjory Stoneman Douglas High School in Florida

While no bills are on the docket for consideration related to gun control or strengthening background checks, at least two are gaining traction in relation to potential school resources. In addition, several Members of Congress are requesting additional funds for programs which could provide school based safety and mental health services and the Senate has scheduled a hearing on the Parkland shooting.

Two key bills which educators are keeping an eye on are:

- **THE STOP School Violence Act of 2018 (HR 4909) (S. 2495)**
 - A bi-partisan bill introduced by Rep. John Rutherford (R-FL), Rep. Ted Deutch (D-FL), Rep. Derek Kilmer (D-WA) and Rep. Hal Rogers (R-KY); the bill now has 71 cosponsors – Republican and Democrat
 - The bill may come up on the floor for a vote in the House next week
 - The Senate has introduced a companion bill led by Sen. Hatch (R-UT) and Klobachar (D-MN), with multiple bipartisan co-sponsors including Sen. Chris Murphy (D-CT) who has been outspoken since the Sandy Hook massacre
 - The bill authorizes funds in the Department of Justice to provide grants to states to support schools in providing evidence-based programs that prevent violence before it happens

- Advocates have raised some concerns about the bills related to the potential use of funds by private as well as public schools and how due process will be ensured for students.
- **The School Safety and Mental Health Services Improvement Act (Senate – no bill number yet)**
 - Led by Sen. Lamar Alexander (R-TN), chair of the Senate HELP Committee, and co-sponsored by Sens. Roy Blunt (R-Mo.), Bill Cassidy (R-La.), Susan Collins (R-Maine), Pat Roberts (R-Kan.), Todd Young (R-Ind.), Sen. John Cornyn (R-TX), Sen. Marco Rubio (R-FL), and several other Republicans;
 - Amends Title II and IV of ESSA to broaden the use of funds for school safety and violence prevention; directs the Sec. of Education to create a School Safety and Violence Prevention National Technical Assistance Center; reauthorizes and updates the Children and Violence program of the Public Health Service Act; authorizes the Secretary of HHS to conduct new studies on children at risk of developing mental illness; creates a Presidential Interagency Task Force to improve school safety and prevent school violence.
 - One concern raised by educators about this bill is that it authorizes infrastructure expenditures with ESSA funds (such as metal detectors) when ESSA funds are already spread too thin.
 - It is rumored that there may be an effort to attach this bill to the omnibus spending bill

In the House, Chair of the Ed and Workforce Committee Virginia Foxx (R-NC) along with ranking Member Bobby Scott (D-VA) have asked appropriators to increase funding for the Student Support and Academic Enrichment Grants authorized under ESSA to the authorized level of \$1.6 billion. The program is currently funded at \$400 million. In the Senate, 30 Senators have submitted a letter to appropriators urging “the highest possible level” of funding for the program in the FY 2018 funding bill. This program can be used to provide support services for students and teachers.

Finally, the chair of the Senate Judiciary Committee, Sen. Chuck Grassley (R-IA), has scheduled a hearing for next Wednesday titled "See Something, Say Something: Oversight of the Parkland Shooting and Legislative Proposals to Improve School Safety."

For Sen. Alexander’s bill see: <http://www.wate.com/news/tennessee/sen-lamar-alexander-introduces-school-safety-bill-to-senate-floor/1018010302>

For the Senate STOP Act see: <https://www.hatch.senate.gov/public/index.cfm/releases?ID=88C4B2FD-F3DE-4DEB-A018-B91483D285BB>

For House STOP Act: <https://rutherford.house.gov/media/press-releases/congressman-john-rutherford-announces-bipartisan-stop-school-violence-act>

For Senate Hearing: <https://www.judiciary.senate.gov/meetings/see-something-say-something-oversight-of-the-parkland-shooting-and-legislative-proposals-to-improve-school-safety>

3. Higher Ed Reauthorization: House Bill Criticized by Department of Education Inspector General

The PROSPER Act, the House Republican reauthorization bill, awaits time on the House floor for consideration. But every week there seems to be new criticism which will likely lessen the probability of it finding a slot on a crowded agenda. This week the Office of the Inspector General of the Department of Education wrote a letter concluding that the bill would eliminate provisions of the law that are meant to hold colleges accountable for the taxpayer dollars they receive.

The letter notes:

“Innovations to modes of delivery of education through distance education, direct assessment, and competency-based education that may improve access to and more-timely completion of postsecondary education each present a new challenge to comply with statutory requirements while ensuring a cost-effective quality education to justify the Federal investment. Oversight of the programs by the Department continues to be a significant management challenge reported by my office, and reliance on accrediting agencies and states for oversight in their roles defined by the HEA has not always been effective to protect students and taxpayers.”

Letter from OIG:

<https://www2.ed.gov/about/offices/list/oig/misc/lettertocongressonoighearecommendationmarch2018.pdf>

4. Voucher Bill for Military Families Introduced

Impact Aid is a \$1.3 billion program which provides funds to support public schools where a tax base is limited due to a military base, Native American Reservation or national park. Bills have been introduced in the House (HR 5199 by Rep. Jim Banks R-Ind) and in the Senate (S 2517 by Sen. Tim Scott R-SC and Sen. Ben Sasses R-Neb) which would allow funds to be used for military families in Education Savings Accounts which would pay for private school tuition. Groups such as the national Military Family

Association oppose the bills. Sec. DeVos has indicated support for the bills, which were based on a Heritage Foundation proposal.

See: <https://www.sasse.senate.gov/public/index.cfm/press-releases?ID=EF535D19-86ED-44FE-82F0-660536D406A2>

5. Department of Education Releases Final Priorities for Discretionary Grant Programs

On March 2, Sec. DeVos issued her final priorities for discretionary programs. The determination of such priorities is standard procedure for Secretaries of Education intended to promote the policy goals of the Administration. Not surprisingly school choice is on Sec. DeVos's list.

Last Fall the Secretary proposed 11 priorities and sought comment from the field. The final list includes the proposed 11 altered slightly.

Those priorities are:

- Empowering Families and Individuals to Choose a High-Quality Education that Meets Their Unique Needs
- Promoting Innovation and Efficiency, Streamlining Education with an Increased Focus on Improving Student Outcomes, and Providing Increased Value to Students and Taxpayers
- Fostering Flexible and Affordable Paths to Obtaining Knowledge and Skills
- Fostering Knowledge and Promoting the Development of Skills that Prepare Students to be Informed, Thoughtful, and Productive Individuals and Citizens
- Meeting the Unique Needs of Students and Children with Disabilities and/or those with Unique Gifts and Talents
- Promoting STEM Education, With a Particular Focus on Computer Science
- Promoting Literacy
- Promoting Effective Instruction in Classrooms and Schools
- Promoting Economic Opportunity
- Protecting Freedom of Speech and Encouraging Respectful Interactions in a Safe Educational Environment
- Ensuring that Service Members, Veterans, and Their Families Have Access to High-Quality Educational Options

For the announcement of priorities: https://s3.amazonaws.com/public-inspection.federalregister.gov/2018-04291.pdf?utm_campaign=pi%20subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email

6. Secretary DeVos Proposes Postponing IDEA Disproportionality Regulation

The Obama Administration wrote an IDEA regulation, known as “significant disproportionality,” intended to address the overrepresentation of minority students in special education and discriminatory practices in relation to placement and school discipline. The regulation, in response to a GAO report, created standard metrics for states to use in determining disproportionality. Historically states have used different methodologies and few have been flagged for disproportionality. Sec. DeVos proposed delaying the implementation of the rule for two years (from 2018 to 2020) for K-12 students and for four years (from 2018 TO 2022) for students ages 3-5 served by IDEA Part C. The federal register notice indicates that several concerns have been raised about the regulation. It notes:

“A number of commenters suggested, for example, that the Department lacks the statutory authority under IDEA to require States to use a standard methodology, pointing out as well that the Department's previous position, adopted in the 2006 regulations implementing the 2004 amendments to IDEA, was that States are in the best position to evaluate factors affecting determinations of significant disproportionality.

Similarly, one detailed comment expressed concern that the standard methodology improperly looks at group outcomes through statistical measures rather than focusing on what is at the foundation of IDEA, namely the needs of each individual child and on the appropriateness of individual identifications, placements, or discipline. Further, a number of commenters suggested that the standard methodology would provide incentives to LEAs to establish numerical quotas on the number of children who can be identified as children with disabilities, assigned to certain classroom placements, or disciplined in certain ways.”

Rep. Bobby Scott (D-VA) and Sen. Patty Murray (D-WA) issued a statement blasting the proposal. Sen. Murray said that Sec. DeVos ““made it clear in her confirmation hearing that she didn't understand an important federal law protecting students with disabilities, and this latest move shows that she hasn't made much progress since,” Rep. Scott noted “Clearly, leaving ... significant disproportionality unregulated has done a disservice to millions of students of color with disabilities and exacerbated the 'school to prison pipeline. We cannot continue to ignore these disparities.”

The Department of Education is asking for comments on the proposal. They are due May 14 and may be submitted following the directions noted in the federal register below.

See: <https://www.federalregister.gov/documents/2018/02/27/2018-04102/assistance-to-states-for-the-education-of-children-with-disabilities-preschool-grants-for-children>

<https://bobbyscott.house.gov/media-center/press-releases/scott-murray-on-the-rollback-of-civil-rights-for-students-with>

7. New Resources for Educators

- **The Education Trust** has issued *Funding Gaps 2018 An Analysis of School Funding Equity Across the US and within Each State*. School districts serving the most minority students receive about \$1800, or 13%, less per student in state and local funding than those serving the fewest students of color. See: <https://edtrust.org/resource/funding-gaps-2018/>
- **Bellwether Education Partners** has issued *Women in the Education Workforce: The Impact of State Teacher Pension Systems on Women's Retirement* a nonprofit, is out with [new analyses](#) that find that female educators earn lower salaries than their male counterparts throughout their working careers, which in turn leads to lower retirement benefits. See: <https://www.teacherpensions.org/resource/women-education-workforce-impact>
- **The Century Foundation** issued *The Future of Statewide College Promise Programs* noting that at least 16 states have statewide free or debt-free college programs. See: <https://tcf.org/content/report/future-statewide-college-promise-programs/>
- **The First Five Years Fund** is out with *Early Learning in State ESSA Plans: How States are Using the Law* which describes state efforts to support early learning using ESSA. See: <https://ffyf.org/resources/early-learning-state-essa-plans-states-using-law/>
- **New Leaders** issued a policy brief *Prioritizing Leadership: An Analysis of State ESSA Plans*. It found that:
 - 24 states plan to use the new 3 percent set-aside for school leadership
 - 41 states acknowledge leadership in their plans to improve high-need schools
 - 36 states intend to invest in teacher leadership
 - 21 states are expanding high-quality principal preparation programs
 - 11 states are rethinking and investing in principal supervisors
 See: <http://newleaders.org/press/new-leaders-releases-policy-brief-state-essa-plans/>
- **The Education Commission of the States** issued an analysis *Governors' Top Education Priorities in 2018 State of the State Addresses* which considers priorities governors laid out in their state of the state addresses this year.

See: <https://www.ecs.org/governors-top-education-priorities-in-2018-state-of-the-state-addresses/>.

- **The National Association of Charter School Authorizers** issued *Leadership Commitment Judgement Elements of Successful Charter School Authorizing* considering what it takes to be a high quality authorizer. See: <http://www.qualitycharters.org/research/quality-practice-project/>

- **The National Center for Special Education in Charter Schools** issued *Key Trends in Special Education in Charter Schools: A Secondary Analysis of the Civil Rights Data Collection 2013-2014* reporting that charter schools tend to serve students with disabilities in more inclusive settings.

See: <http://www.ncsecs.org/crdc-analysis-13-14>

- **The American Youth Policy Forum (AYPF) and the College & Career Readiness & Success (CCRS) Center** issued a new policy brief *How ESSA and IDEA Can Support College and Career Readiness for Students With Disabilities: Considerations for States*. See: <http://www.ncsecs.org/crdc-analysis-13-14>

- **The National Center on Learning Disabilities and Understood.org** have developed an *Andrew F. Advocacy Toolkit* providing practical tips for developing an IEP that leads to success for students with learning and attention issues. The tool kit includes information from last year's Supreme Court case *Andrew F. v. Douglas County School District* which held that IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

See: <https://www.understood.org/en/school-learning/your-childs-rights/basics-about-childs-rights/download-andrew-f-advocacy-toolkit>

I'll be in Boston next Friday visiting my best friend – since 6th grade! (There is nothing like such friends who knew you before you were fully formed. They are real treasures.) Next Washington Update will be March 23. I sure hope I'll be reporting on a completed FY 2018 funding bill with lots of increases for education! 😊

See you on twitter @janewestdc

Best,

Jane