



## Federal Advocacy & Public Policy Update

December 7, 2018

### Congress

#### **Negotiations Continue on Final Appropriations Bills**

With temporary funding for the U.S. Department of Homeland Security (DHS) and other federal agencies scheduled to end on December 7, the House and Senate have approved a two-week Continuing Resolution that will continue government operations for those agencies through December 21, and allow further negotiations regarding the proposed border wall expansion. Because of the difference of more than \$3 billion in funding proposals among congressional leaders and the Administration, House and Senate appropriators are still working to reach a consensus, hopefully inclusive of provisions for the Deferred Action for Childhood Arrivals (DACA) program that impacts more than 690,000 students.

Congressional leaders and the White House must resolve differences and complete the six remaining appropriations bills or pass a longer term funding bill to continue government operations until the 116<sup>th</sup> Congress. President Trump is scheduled to meet with congressional leaders to discuss a path forward early next week.

**End of Year Outlook.** Congress plans to complete its Fiscal Year 2019 work by December 14, but could stay in session until the holidays if a final appropriations agreement cannot be reached by the planned adjournment date. Although the U.S. Department of Education's FY 2019 budget is complete, several federal agencies are operating through stop-gap funding provided by the Continuing Resolution. Passing an omnibus spending bill before this deadline will not be easy, but observers do expect Congress to complete the remaining funding measures before January. Senate leaders will need bipartisan support to move the final bills through the process, including the Department of Homeland Security's (DHS) budget. Negotiations over the DHS budget could involve a debate about immigration policy, including a discussion about students, teachers and other individuals covered by the Deferred Action for Childhood Arrivals program.

**Nominations.** Although completing the FY2019 appropriations process is the biggest item on Congress' post-election "to do" list, key committees are also continuing other legislative work. The Senate Health, Education, Labor and Pension's Committee met this week to consider Robert King's nomination to serve as Assistant Secretary for Postsecondary Education and John Pallasch's nomination to be Assistant Secretary for Employment and Training in the U.S. Department of Labor. King will be responsible for the U.S. Department of Education's implementation of the GEAR UP and TRIO college access and success programs, among other initiatives. Pallasch will oversee Department of Labor education programs such as Youth Build. Both nominees were approved by the Committee. NSBA expects the full Senate to approve both nominees this month.

**Student Data Privacy.** Improving data privacy, including better protections for student data, is on Congress' December agenda. The Senate Commerce Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security recently held a [Federal Trade Commission oversight hearing](#) that

included a discussion about whether the agency's data privacy jurisdiction should be expanded. In recent years, a bipartisan group of legislators - Senator Daines (R-MT), Senator Blumenthal (D-CT), Representative Messer (R-IN), and Representative Polis (D-CO) - championed legislation to grant the FTC authority to expand regulation of student data held by third parties, including nonprofits and companies that work with school districts and manage student information. NSBA does not expect further legislative action this year; but, Subcommittee Chairman Moran (R-KS) stated that he intends to convene additional data privacy hearings in 2019.

**Appropriations.** The House Republican Steering Committee has approved Representative Kay Granger (R-TX) to become the Ranking Member of the House Appropriations Committee during the 116<sup>th</sup> Congress. This development follows earlier news that Representative Nita Lowey (D-NY) will serve as Chairwoman of the Committee. Other appropriations subcommittee leadership positions for 2019 have not been formally announced. However, NSBA expects the House Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee to be led by longtime Committee member Rosa DeLauro (D-CT). The Subcommittee's Ranking Member may be its current chairman, Representative Tom Cole (R-OK). The Senate Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee will likely continue to be led by Senators Roy Blunt (R-MO) and Patty Murray (D-WA).

## Administration

### U.S. Department of Agriculture Approves Child Nutrition Regulation Changes

The U.S. Department of Agriculture (USDA) published a [final rule](#) this week to provide schools with relief from the Healthy, Hunger-Free Kids Act requirements related to milk, whole grains, and sodium. The new regulations will take effect on July 1, 2019. The Department's changes represent official action on a [plan](#) that was announced by the Secretary of Agriculture in May 2017. Under the new rules, schools will be able to offer students flavored one-percent milk (not just unflavored skim milk), reduce the current 100 percent whole grain requirement to just 50 percent – ending the exemption process that some school districts utilized when having trouble meeting the 100 percent requirement, and maintain the current Target 1 sodium level until 2024. The next round of sodium cuts (Target 2) will begin in 2025. The rule also eliminates the final Target 3 sodium level entirely. NSBA has long advocated for these flexibilities and applauds the final rule. Further, NSBA is continuing discussions with the USDA and Congress about additional regulatory and legislative improvements to school meal programs that will help to ensure school districts are able to provide affordable healthy meals to children.

### **White House Releases STEM Education Report**

The Committee on STEM Education of the White House National Science & Technology Council published a report titled "[Chartering a Course for Success: America's Strategy for STEM Education](#)." The Committee includes representatives from the National Science Foundation, the U.S. Department of Education, the National Aeronautics and Space Administration (NASA), U.S. Department of Defense and other agencies. The report focuses on three goals:

- [Build Strong Foundations for STEM Literacy](#) by ensuring that every American has the opportunity to master basic STEM concepts, including computational thinking, and to become digitally literate. A STEM-literate public will be better equipped to handle rapid technological change and will be better prepared to participate in civil society.
- [Increase Diversity, Equity, and Inclusion](#) in STEM and provide all Americans with lifelong access to high-quality STEM education, especially those in historically underserved and underrepresented in STEM fields and employment. The full benefits of the Nation's STEM enterprise will not be realized until this goal is achieved.
- [Prepare the STEM Workforce for the Future](#)—both college-educated STEM practitioners and those working in skilled trades that do not require a four-year degree—by creating authentic learning experiences that encourage and prepare learners to pursue STEM careers. A diverse talent pool of STEM-literate Americans prepared for the jobs of the future will be essential for maintaining the national innovation base that supports key sectors of the economy and for making the scientific discoveries and creating the technologies of the future.

Federal agencies will use the report as a guide for contributing to STEM education initiatives.

### **U.S. Department of Education Solicits Comments on "Unsafe School Choice Option"**

The Department of Education's Office of Planning, Evaluation, and Policy Development (OPEPD) is seeking comments on a "[Study of State Implementation of the Unsafe School Choice Option](#)." The Department plans to examine how states are implementing this requirement, which is codified in the Every Student Succeeds Act. The provision allows students attending a persistently dangerous public elementary or secondary school, or students who become victims of a violent criminal offense while in or on the grounds of a public school, to attend a safe public school within the district including a public charter school. Public comments about the provision's implementation must be submitted to the Department by February 1, 2019.

**Every Student Succeeds Act Implementation.** The U.S. Department of Education posted a [guidance document](#) regarding the process for submitting amendments to approved ESSA consolidated State plans. States are first required to submit the amendment to the Governor and afford a reasonable opportunity for public comment. The document then specifies what must be included in the amendment in order to secure the Department's approval. In order to make amendments to accountability determinations for the 2019-20 school year, all amendments must be submitted by March 1, 2019.

**U.S. Department of Education Publications.** The Department of Education's Office of Inspector General released its "[FY 2019 Annual Plan](#)," which includes an explanation of the agency's

internal performance measures and other administrative issues. The Office of Inspector General also released a report titled "[Office of the Chief Privacy Officer's Processing and Family Educational Rights and Privacy Act Complaints](#)," which showed a significant backlog in the agency's efforts to address privacy complaints filed with the Family Policy Compliance Office (FPCO). The Department recently announced organizational changes to address this challenge that will impact both FPCO and the Privacy Technical Assistance Center, which helps school districts comply with the Family Educational Rights and Privacy Act and the Pupil Protection Rights Amendment, among other federal privacy requirements.

#### **U.S. Department of Education Publishes New ESSA Materials**

The Department of Education has released a new Every Student Succeeds Act (ESSA) guidance document titled "[A Parent Guide to State and Local Report Cards](#)." The guide, which focus on ESSA's mandatory school district and state education agency transparency requirements, aims to equip parents with information on education spending, parent engagement, accessibility and availability of report cards, student achievement, graduation rates, accountability, school environment, and teacher qualifications.

Separately, the Department published a final report, as required by ESSA, about how the Department of Education can "meaningfully increase the consideration and participation of rural schools and rural local educational agencies in the development and execution of the processes, procedures, policies, and regulations of the Department of Education." School board members can access the report [here](#).

#### **U.S. Department of Education Releases CTE State Plan Guide for Comment**

The Department of Education has posted a [draft state plan guide](#) for the Strengthening Career and Technical Education for the 21st Century Act, which updated the Carl D. Perkins Career and Technical Education Act. The guide provides states with two options for satisfying the law's planning requirement: Submitting a transition plan for the 2019-20 school year and then submitting a full plan the following year; or, submitting a full five-year plan through the 2023-24 school year. Comments on the guide for state plan submissions will be accepted until December 24 and can be submitted [here](#).

## **NSBA**

### **2019 Advocacy Institute**

Join us for the 2019 [Advocacy Institute](#) scheduled January 27-29, 2019 - "*New Congress. New IDEA. New Opportunities.*" Dr. Norman J. Ornstein, a resident scholar of the American Enterprise Institute, will be a keynote speaker along with Jon Meacham, author of [The Soul of America: The Battle for Our Better Angels](#), and Christopher Graves, President & Founder of the Ogilvy Center for Behavioral Science. During the Advocacy Institute, we will launch NSBA's campaign for modernization and full funding of IDEA and host concurrent sessions on "Delivering Workforce Readiness: School Districts & Business Partnerships," "The 2020 Census & Its Impact on Student Counts, Funding and Poverty in School Districts," "School Safety: The Federal Front, State Actions and Title IV," and "Medication Management: Issues and Challenges."

