ML STRATEGIES

Education in the 116th Congress

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Legislative Priorities

It is expected that both the House and Senate will begin the 116th Congress with a focus on higher education. Both the Senate Health, Education, Labor, and Pensions (HELP) Committee as well as the House Education and Workforce Committee spent the end of the 115th Congress dealing with issues related to higher education, and Senator Lamar Alexander (R-TN) has indicated that reauthorization of the Higher Education Act (HEA) will be a top priority moving forward.

There are many issues within HEA that both sides of the aisle will begin to look at in the new Congress. These include the simplification of the Free Application for Federal Student Aid (FAFSA) and other student financial aid programs. For example, the FAFSA application currently has more than 100 questions; a bipartisan goal is to decrease this number by nearly 80 percent. Another component of the overhaul of HEA includes the potential to increase the types of technologies that can be used by students when applying for aid, simplifying the student loan and repayment system for current students, and creating new partnerships between the Every Student Succeeds Act (ESSA) and HEA.

It is expected that the HELP Committee will also look at Title II of HEA, Teacher Quality in 2019. This piece of the law was eliminated by the House version of higher education, the Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act, which was released in the 115th Congress by House Republicans. However, both Republicans and Democrats in the Senate believe this section of HEA is important to keep in the law so that grants can be administered in order to address teacher adequacy in higher education as well as teacher shortages in K-12 and special education.

It will also be important to be on the lookout for potential bills related to the reauthorization of the Family Educational Rights and Privacy Act (FERPA), federal research related to education practices, as well as school safety as a continued priority under ESSA. The end of the 115th Congress also saw the introduction of H.R. 7124, the Keeping All Students Safe Act. This legislation focuses specifically on seclusion and restraint and aims to establish the first-ever federal oversight of the issue within schools throughout the nation. The measure would bar seclusion at any school receiving federal tax dollars and would also significantly limit the use of restraint to situations where the safety of students and teachers is at risk. Currently, seclusion and restraint issues are dealt with at the state level. It is expected that this bill will be reintroduced by both the House and Senate at some point during the 116th Congress.

Administrative and Regulatory Priorities

The Trump Administration is expected to continue to work on regulatory priorities as Congress moves forward. Currently, the Administration is focused on Title IX, which focuses on discrimination of individuals in higher education on the basis of sex. Specifically, the Administration has proposed changes to Title IX that would fortify due process protections for accused students and would narrow the definition of sexual harassment on university campuses. While there are proponents of both sides of amending Title IX, there has been pushback that explicitly concerns student conduct in higher education settings.

It is also expected that the Administration will continue to work on the elimination of the Obama-era “gainful employment” regulation, which targets for-profit colleges over concerns related to fraud and abuse. Although there was concern by the outgoing Inspector General that it would not be good to scrap this rule without a proper replacement to ensure accountability, it seems that the Administration will continue to move forward with the removal of this regulation. In addition to the regulations listed above, it is expected that the Department of Education will focus on the implementation of ESSA, as it has now received and approved all state plans related to the law. In addition, expect the Department to focus on increased flexibility for schools. This includes the possibility of refining certain aspects of the Individuals with Disabilities Education Act (IDEA) as well as information and listening sessions on increasing “flexibility” for local school districts. With regard to flexibility, expect the Administration to continue to discuss charter schools as well as areas within education where vouchers have the potential to be utilized by students with and without disabilities.

Committee Leadership in the 116th Congress

Jurisdiction for issues related to education falls into the Health, Education, Labor, and Pensions (HELP) Committee in the Senate and to the Education and Workforce Committee in the House of Representatives. Sen. Lamar Alexander (R-TN) and Sen. Patty Murray (D-WA) will continue to serve as

chairman and ranking member, respectively, of the Senate HELP Committee. The chairman of the House Education and Workforce Committee will be Rep. Bobby Scott (D-VA), with Rep. Virginia Foxx (R-NC) selected as the top Republican for the committee.

Authors