

**ITEM:** Item 8.4

**DATE:** January 25-26, 2014

**TITLE:** Legislative/Political Report  
*Federal Issues Update*

**Action:** \_\_\_\_\_ **Direction/Discussion:** \_\_\_\_\_ **Update:** \_\_\_\_\_ **Written:** x \_\_\_\_\_

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## **Summary**

This update contains information on the following recent federal issues and activities:

- Representative George Miller to Retire
- National School Boards Association's (NSBA) Advocacy Institute (formerly Federal Relations Network (FRN) Conference)
- Federal Funding and Budget
- Community Eligibility Data
- Guidance on School Discipline
- School Meal Rules

## **Background**

### *Miller to Retire*

Representative George Miller (D-Martinez) announced his retirement at the end of his 20th two-year term later this year. Forty years in the U.S. House of Representatives earned him the seniority to have served as Chair of the House Education and Labor Committee and to be the dean on education issues to most of the California delegation. Miller's announcement was followed immediately with an announcement by State Senator Mark DeSaulnier (D-Concord) that he will run for the seat. This in turn changes the dynamics of the race to succeed Senator Darrell Steinberg (D-Sacramento) as State Senate President Pro Tempore, as DeSaulnier was competing against Senator Kevin De Leon for that leadership post. The announcement by DeSaulnier is also likely to spark interest in his Senate seat. Since he is otherwise termed out in 2016, a win in the Congressional seat would result in DeSaulnier resigning and there being a special election early in 2015. Assembly Member Susan Bonilla (D-Concord) and Assembly Member Joan Buchanan (D-Alamo) are reportedly interested in running for that Senate seat as well.

But an even bigger question is how Miller's exit will affect education policy in Congress and among the California delegation, as many look to him for guidance.

### *NSBA Advocacy Institute*

NSBA's Advocacy Institute (Institute), formerly the FRN conference, will be held February 2-4, 2014, at the Washington Hilton Hotel, in Washington, D.C. The Institute provides an opportunity for school

board members to improve their advocacy skills and learn more about key federal issues. Issues to be discussed at this year's conference include federal funding and local school board governance. CSBA staff is scheduling meetings between CSBA members and their members of Congress, as well as meetings with Administration officials and the Federal Communications Commission (FCC).

Keynote speakers for the Institute conference include Bob Woodward, legendary Pulitzer Prize winning journalist, author and Associate Editor of *The Washington Post* and Reverend Bernice King, inspirational orator, author and daughter of Dr. Martin Luther King, Jr.

Registration for the Advocacy Institute is open and can be accessed [here](#) or at:  
[http://www.csba.org/Advocacy/LegislativeAdvocacy/2014\\_NSBAAdvocacyInstitute.aspx](http://www.csba.org/Advocacy/LegislativeAdvocacy/2014_NSBAAdvocacyInstitute.aspx)

### *Federal Funding and Budget*

On December 29, 2013, President Obama signed [H.J. Res 59 \(Rogers, R-KY\)](#) (information at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d113:h.j.res.00059>) which created a two-year federal spending plan. H.J. Res 59 also modified sequestration by erasing most of, if not all, the impending cuts for the current fiscal year.

This plan covers two years – fiscal year (FY) 2014, which started on October 1, 2013, and FY 2015. H.J. Res 59 sets spending at \$1.012 trillion and provides \$63 billion in sequestration relief and \$85 billion in mandatory savings. The Congressional Budget Office estimates that this bill will save \$23 billion over 10 years. The additional budget allowance is split equally between defense and non-defense programs and brings the cap for non-defense discretionary programs to \$492 billion, which is approximately 87 percent of total non-defense spending pre-sequestration funding levels.

The legislation offsets the increased costs of the new budget by extending sequestration for mandatory programs like Medicare through 2023 (this cut varies by program but can range from 2 percent to 8 percent). It also changes several federal programs, including Medicaid, to strengthen enforcement mechanisms to prevent fraud, waste, and abuse and makes changes to the management of oil and gas leasing and procurement, and increases the required employee contribution for new federal employees' retirement plans. Finally, the plan increase certain fees like Transportation Security Administration fees (estimated to cost an additional \$2.50 per trip segment). Overall, the budget proposal is projected to reduce the deficit by about \$23 billion over the next decade.

Under the provisions of H.J. Res 59, Congress must approve the various appropriations measures in order to provide program budgetary funding by January 15.

On Monday, January 13, House and Senate negotiators rolled out a \$1.1 trillion spending bill – a package that fills in the blanks of the December budget agreement and promises to restore some order to government funding over the next year. Under pressure from Republicans, the measure keeps a tight rein on new funding for Wall Street regulators and effectively freezes appropriations for President Barack Obama's healthcare program at the reduced, post-sequester level. However, the White House retains the flexibility to find the financing it needs to implement the health exchanges.

As expected, the final appropriations bill increases spending in most programs nearly to pre-sequestration FY 2013 levels. This means no additional cuts for federal program funds in the current fiscal year – and in many cases, program grantees will see some extra dollars in their next funding allocation. Education spending wouldn't quite catch up to pre-sequester levels with Monday night's

omnibus spending bill - but it would come close. The \$67 billion in discretionary funding for education comes out roughly \$811 million less than in the 2012 fiscal year, according to an analysis by the Committee for Education Funding's Joel Packer. Congress clearly favored formula funding over competitive grants. And early childhood education programs would grow – followed by boosts and even a new program for higher education. Highlights for education funding include:

- Title I of the Elementary and Secondary Education Act (ESEA) will be funded at \$14.4 billion dollars across FY 2014, an increase of \$624 million over sequestration, but still \$103 million less than pre-sequester FY 2013 levels.
- Migrant Education will see a \$2 million boost, and education for homeless children and youth will see an increase of about \$3.3 million.
- The bill includes a new provision which clarifies that Title I funds may be used to address the transportation needs of homeless youth and fund homeless liaison programs.
- Existing Charter School Grant Program assurances – first outlined in the FY 2010 appropriations bill – have been restated here, reinforcing Congressional intent.
- State grants under the Individuals with Disabilities Education Act (IDEA) will see an increase of nearly \$500 million over final FY 2013 funding, for a total appropriation of \$11.5 billion (though this amount is still about \$82 million less than pre-sequester FY 2013 levels)
- Renewed funding for School Improvement Grants (SIG) at \$505 million, but it comes with some strings attached. The U.S. Department of Education (ED) must allow states to pick from one of the four original SIG “models,” another model as approved by ED, or a new “whole school reform” model in which schools partner with outside organizations that have a proven track record in turning around low-performing schools. These changes closely mirror adjustments made in ESEA reauthorization legislation introduced in the Senate last year.
- Impact Aid which is among the big winners in this bill will see an increase of nearly \$65 million, putting total funding levels at \$1.3 billion – topping even pre-sequestration FY 2013 levels.
- Head Start is another big winner, with a funding increase of \$612 million. That amount brings total program funding to \$8.6 million – enough to restore all sequestration cuts, give grantees a 1.3 percent cost of living adjustment, and add \$500 million to the Early Head Start program.
- Career and Technical Education State Grants will see an increase of \$53 million in the bill, for an FY 2014 total of \$1.12 billion. Perkins and Adult Education and Family Literacy Act (AEFLA) programs will be funded at \$1.7 billion, up about \$54 million from FY 2013 levels.
- Funding for Adult Basic and Literacy Education State Grants will hold steady at \$563 million, while the English Language/Civics Education grant will be funded at \$70.8 million.

Originally, the White House had requested funding for a new \$750 million preschool development grant – intended to serve as a precursor to its proposed universal pre-kindergarten program and while it did not get a green light from appropriators, Senate Democrats did push successfully for a new early-education round of Race to the Top. That program dedicates \$250 million in new competitive grant funding for developing or expanding high-quality preschool programs for four-year-olds under 200 percent of the Federal Poverty Level.

In order to meet the requirements of H.J. Res 59 to have an appropriations bill in place by January 15, Congress is looking to pass a stopgap suspension bill, which will keep the federal government running. The House was expected to take that bill up on January 14 with the Senate following. Final action on the appropriations bill could happen as early as January 16 or 17. Once spending levels are finalized, federal agencies will begin to break down those numbers for States and school districts.

### *Guidance on Community Eligibility Data*

The U.S. Department of Education's (ED's) Office of Elementary and Secondary Education has issued new guidance for states and school districts on how to incorporate Community Eligibility data into various calculations under Title I of the Elementary and Secondary Education Act (ESEA). The "Community Eligibility Provision," created by the Healthy, Hunger-Free Kids Act of 2010, is intended to reduce administrative burden on schools, districts, and families. It allows schools which meet a certain threshold to use existing federal program data, rather than individual household surveys, to calculate reimbursement rates for school-based meal services.

The United States Department of Agriculture (USDA), which operates school meal programs, has been piloting Community Eligibility in a number of states, but the option will be open to all states in the 2014-15 school year. Exercising this option, however, has created new challenges for many grantees. Federal poverty data, especially the count of students eligible for "free and reduced-price" school meals, is an essential data point in calculating funding allocations and accountability under a host of programs. Without clear direction from either USDA or ED, many schools and districts were unclear about how they would make calculations based on this data while exercising the Community Eligibility option. This guidance is intended to provide direction for incorporating Community Eligibility data into within-state and within-district Title I funding allocations, equitable services for private school students, and Title I accountability. It replaces guidance issued in July of 2012 and adds much greater detail and flexibility for states and districts.

The new Community Eligibility guidance is available [here](#). Or at:

[www2.ed.gov/programs/titleiparta/13-0381guidance.doc](http://www2.ed.gov/programs/titleiparta/13-0381guidance.doc). ED does not indicate a date of applicability for this guidance, but it will likely apply on a rolling basis as State Education Agencies (SEAs) and Local Education Agencies (LEAs) begin to implement Community Eligibility in individual schools.

### *Guidance on School Discipline*

The ED and U.S. Department of Justice (DOJ) have issued new joint guidance designed to help schools ensure that disciplinary policies are not drafted or implemented in a way that discriminates against specific racial or ethnic groups. The intent of the guidance, considered a "significant guidance document" by the agencies, is to clarify how districts can ensure that their policies meet the obligations under the Civil Rights Act of 1964.

The guidance recommends a focus on creating positive educational and disciplinary environments with efforts at prevention rather than punishment. It also suggests a system of consistent and equitable expectations and consequences and lays out a number of suggested action steps for promoting positive behavior in each category.

The new guidance stems from the conclusions of a working group known as the Supportive School Discipline Initiative. That group was formed to address criticisms that "zero tolerance" discipline policies were disproportionately applied to poor and minority students – especially to low-income African American male students – and that many policies resulted in unnecessary and inappropriate referrals to the criminal justice system.

The ED/DOJ documents, including a Dear Colleague letter and other resources, are available [here](#) or at [www2.ed.gov/policy/gen/guid/school-discipline/index.html](http://www2.ed.gov/policy/gen/guid/school-discipline/index.html).

## *School Meal Rules*

In the December 3, 2014, [Federal Register](#), the U.S. Department of Agriculture (USDA) published new regulations related to the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). The final rule adopts some new policies but also rewrites several HHFKA regulations.

The most significant revision is the removal of the daily and weekly caps on grains, meats, and meat alternatives for school lunches served through the National School Lunch Program (NSLP). This change extends existing flexibility created by USDA in guidance documents, reducing the number of benchmarks that school meals must meet and allowing for a more significant portion of a students' meal to be made up of meat and grains.

The HHFKA regulation limiting the quantity of meats and grains proved controversial as students complained about being hungry before the school day and activities were completed. School food authorities (SFAs) also said they found implementing these thresholds while complying with other nutritional requirements challenging and costly. Public opposition and Congressional pressure forced USDA to offer temporary flexibility on the caps for the 2012-13 school year. This flexibility was extended to cover the 2013-2014 school year as Congress threatened to pass legislation which would permanently eliminate the agency's authority to set such limits.

In the regulations, USDA clarifies that despite the removal of the caps, SFAs must still comply with caloric requirements and other dietary restrictions established in the HHFKA and other regulations. The final rule will be effective on March 4, 2014.

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