

Federal Funding and Legislative Updates

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Agenda

- State of Congress
- Federal Funding Update
- Policy Legislation
- Looking Toward 2015

State of Congress

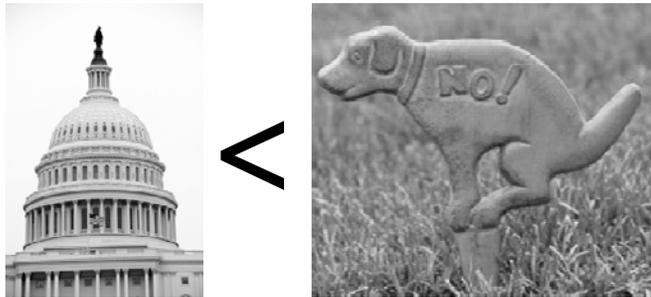
Congressional Approval



Source: PPP Poll, October 2013

Congressional Approval

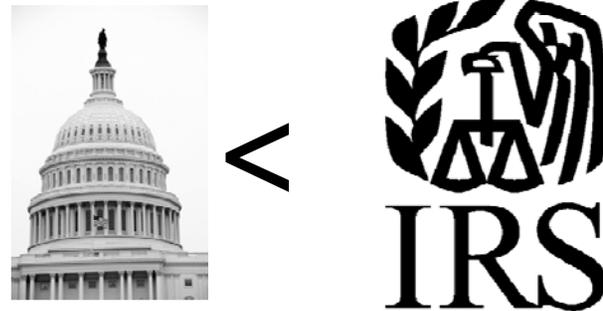
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Source: PPP Poll, October 2013

Congressional Approval

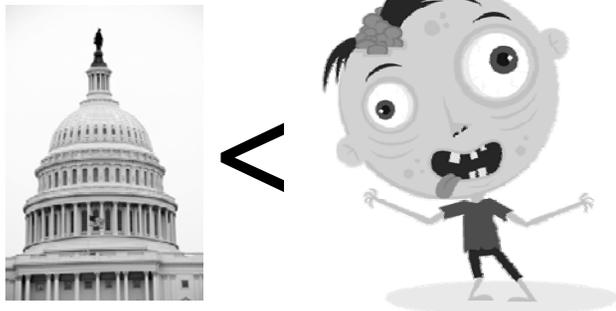
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Source: PPP Poll, October 2013

Congressional Approval

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Source: PPP Poll, October 2013

Congressional Approval

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Source: PPP Poll, October 2013

Congressional Approval

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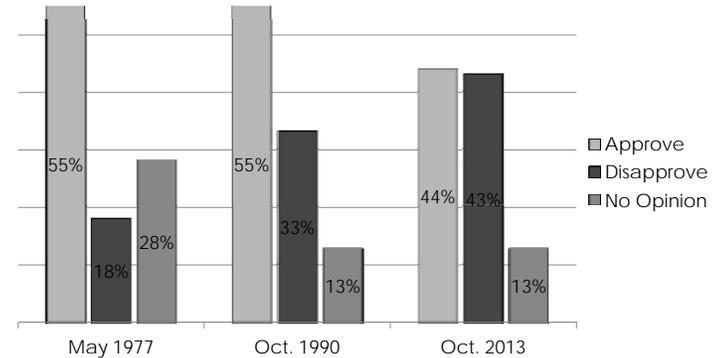


Source: PPP Poll, October 2013

Congressional Approval

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Do you approve or disapprove of the way the Representative from your Congressional district is handling his or her job?



Data: Gallup Polling

Climate Within Congress

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- Lack of popularity/productivity leads to more political angling on the few issues that are seeing some activity
- The problems:
 - Highly contentious
 - Sharply partisan
 - Everything is fair game



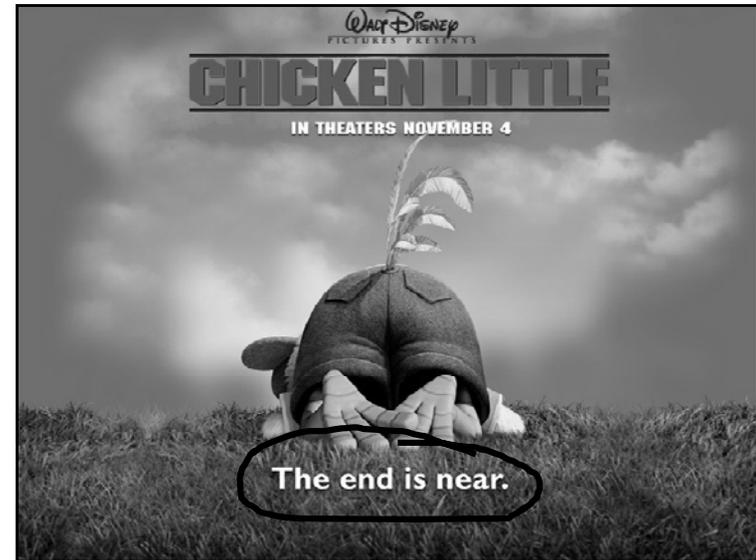
Climate Within Congress

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- The result:
 - Loss of working relationships between members and staff
 - Due to partisanship generally as well as retirements, elimination of benefits/salary cuts
 - 54 members of Senate have served less than 1 full term, 18 have served more than 3
 - Short term fixes to problems
 - With promise of future long-term fix
 - Constant crisis situation
 - Discussions almost always reach crisis level due to procrastination, gamesmanship, statements about high stakes

The Next Big Hurdle: Election 2014

- Only a few months left to legislate
- Members of Congress playing to a number of constituencies:
 - Special interest groups (NRA, EMILY's List, unions, environmental groups, etc.)
 - In-district constituents
 - Parties and party subdivisions
- See these priorities make an appearance through:
 - Legislative action
 - Hearings/meetings/round-tables
 - Public discussions and statements



Federal Funding Update

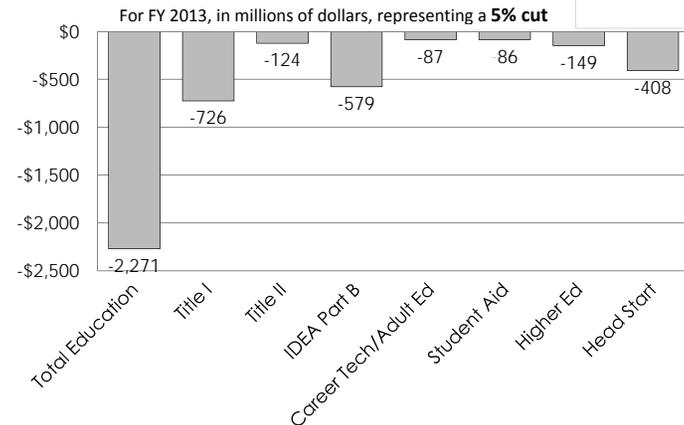
Brief Refresher: Sequestration

- Sequestration was triggered by the 2011 Budget Control Act (BCA) after failure of Congressional debt "supercommittee" to balance budget
- Procedure generally follows 1985 Balanced Budget and Deficit Control Act, but specifics are subject to modification by Congress at any time
- This sequester was modified in the American Taxpayer Relief Act of 2012, commonly known as the "fiscal cliff deal."
 - That law changed the start date of sequester cuts and the amount of cuts for FY 2013

Sequestration Refresher

- Began March 1, 2013
- In FY 2013, cuts were carried out as automatic, across-the-board reductions to actual spending levels for all non-exempt programs, projects, and activities
- Cuts were approximately 5%, but varied because:
 - Cuts were relative to FY 2013 budget
 - Budget allocations at State and district level vary due to:
 - New Census/population data
 - "Hold harmless" and "Small State Minimum" requirements in laws
 - Second 2013 CR made additional 0.2% across-the-board spending cut

Sequestration Cuts



Sequestration Refresher

- FY 2013 sequestration cuts were implemented with first allocation after March 1, i.e.:
 - For single-allocation programs, like Head Start, beginning with programs which receive annual funding on April 1
 - For competitive grant programs, beginning with first competition using FY 2013 funds
 - For bifurcated funding programs like Title I of ESEA, the first allocation of FY 2013 budget year (October 2012) went out in full; sequester cuts were deducted from the second allocation (July 2013).

Sequestration in FY 2014 (as designed)

- In FY 2014 through FY 2021, additional cuts were meant to be implemented through reductions to congressional "spending caps"
 - Internal limits that Congress sets on its own spending in each appropriations "account"
- Congress must pass individualized spending bills in all 12 accounts that, as a whole, comply with two basic requirements of sequestration:
 - Make equal cuts to defense and non-defense spending caps
 - Meet BCA requirements for reductions to spending caps (additional \$109 billion in new cuts annually)

Sequestration in FY 2014 (actual)

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Shutdown Showdown (again)

Trouble Brewing...

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- Clear from mid-summer that individual appropriations bills were not going to be passed
 - House Appropriations Committee said they would spare defense spending from further cuts at expense of non-defense (which would take 20% cut)
 - Senate Appropriations Committee approved Labor-HHS-ED bill that increased funding
 - House cancelled Labor-HHS-ED markup at last minute and never released text of bill
- U.S. scheduled to hit debt ceiling by October 17th

Trouble Brewing...

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- Argument over funding Affordable Care Act ("Obamacare")
 - House passed CR containing provision that would repeal health care law, fund government through December 15th
 - Despite warnings from moderate Republicans, Senate
 - Senate passed stripped-down measure which would fund government through November 15th, including healthcare law
 - House added requirements/riders back in
- Several more rounds of this "legislative ping pong" later....



Government Shutdown

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- Lasted 16 days
- Agencies declared some personnel/activities "essential"
- Essential personnel must report to work, but are not guaranteed pay for shutdown
 - Non-essential personnel are furloughed and may not, under penalty of law, conduct work

Government Shutdown

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- | | |
|--|--|
| <ul style="list-style-type: none"> ▪ Non-Essential Activities <ul style="list-style-type: none"> ▪ National parks and museums ▪ Civilian defense contractors ▪ Bureau of Labor Statistics ▪ OSHA ▪ EPA, FEC, IRS, NASA ▪ Agency press offices and social media | <ul style="list-style-type: none"> ▪ Essential Activities <ul style="list-style-type: none"> ▪ TSA, air traffic control ▪ Active Duty Military ▪ Social security benefits ▪ Pell Grant, federal loan, and ESEA Title I staff ▪ Feeding and care of research and zoo animals ▪ Congress |
|--|--|

Shutdown Impact

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- No new funding approved means all programs without leftover appropriations must halt operations
- Department of Education furloughed 95% of staff
- G-5 Grants Management website operational
 - Managed by external contractors
- Title I, ESEA funds went out on schedule
 - October funds come from previous fiscal year ("advance" appropriations)
 - Staff operating disbursement were declared "essential"
- Funds to Head Start, Impact Aid halted
- No new reimbursements available for school nutrition programs

Shutdown Impact

- Programs that can continue to run under a government shutdown fall under three categories:
 - Those declared “essential” to public safety, health, and other interests
 - Those which are self-funded or funded through private donation
 - E.g. the United States Postal Service, Kennedy Center, and parts of the Affordable Care Act launch
 - Those which are operating under money that was appropriated in a previous budget year
 - E.g. Title I of ESEA, federal courts, some school nutrition programs, and parts of the Affordable Care Act launch

Shutdown Resolution

- Appropriations bill passed October 17th
 - Funds government through January 15th
 - Through “continuing resolution” or “CR”
 - At current (that is, post-sequestration FY 2013) levels
 - Created Budget Conference Committee
 - Bipartisan, bicameral committee
 - Tasked with creating new multi-year spending plan
 - May, but does not have to, deal with sequestration
 - No legal/policy authority; recommendations are non-binding
 - Raised debt ceiling temporarily

Budget Agreement

- Represented compromise between Democrats and Republicans
- Negotiated by Sen. Patty Murray (D-WA) and Rep. Paul Ryan (R-WI)
- **Set spending targets (budget caps) for FY 2014 and FY 2015 that represented an INCREASE over FY 2013**
- Passed Congress December 17th, 2013
 - Passed baton to House and Senate Appropriations Committees to draft spending legislation which complies with caps, other restrictions

Budget vs. Appropriations

- | | |
|--|--|
| <ul style="list-style-type: none"> ■ Budget <ul style="list-style-type: none"> ■ 35,000 foot view ■ Focus on multi-year spending plans ■ Sets “budget caps” (aka 302(b) caps) on large-scale spending “accounts” ■ But no detail on individual programs ■ Purview of House and Senate Budget Committees | <ul style="list-style-type: none"> ■ Appropriations <ul style="list-style-type: none"> ■ Focus on one fiscal year at a time ■ Follow caps agreed to by Budget Committees/leadership ■ Can spend up to – but not more than – cap ■ Set spending levels for individual federal programs ■ Purview of House and Senate Appropriations Committees |
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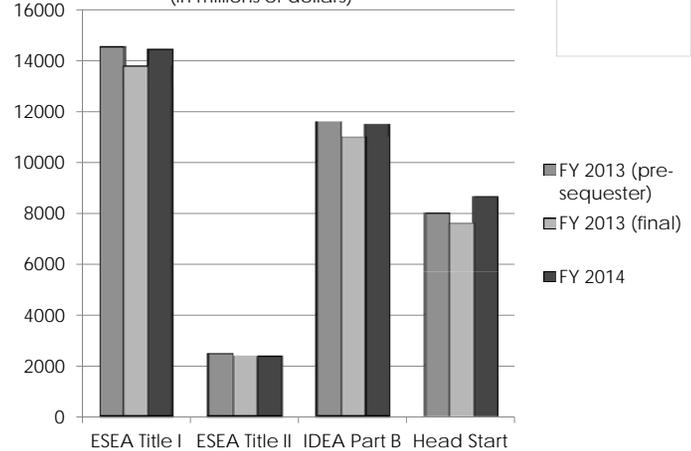
Omnibus 2014

- Massive, \$1.1 trillion FY 2014 spending based on agreed-to caps
- Individual appropriations account bills drafted by Appropriations subcommittees, then combined
- Delayed by disagreements over:
 - Funding for Affordable Care Act implementation
 - Abortion restrictions for DC
 - Funding for Early Education programs
- Ultimately passed January 16th, 2014
- Brings funding for non-defense discretionary federal programs nearly – but not quite – back to pre-sequestration FY 2013 levels



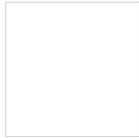
Omnibus 2014

(in millions of dollars)



Omnibus 2014

- **Winners**
 - Head Start
 - Increase over FY 2012 (COLA), plus \$500 for Early Head Start
 - Early Education
 - New \$250 million for competitive Race to the Top Early Education program
 - School Nutrition
 - New \$25 million in competitive school equipment grants



Omnibus 2014

- **Losers**
 - Department of Labor programs (except WIA)
 - Targeted programs (like Rural Education, Advanced Placement, Promise Neighborhoods) – no increase over sequestration
 - President's Early Education program (Race to the Top instead)
 - President's Race to the Top proposal (early education instead)



Omnibus 2014 – Policy Riders

- Restates and reinforces Charter School Grant Program Assurances
 - Student achievement is the most important factor in renewing a charter
- SIG Changes
 - New grants 5 years
 - Two new models
- USDA Waivers
 - USDA must offer waivers to SFAs who have difficulty/cost issues implementing new snack rules
- IDEA Maintenance of Effort
 - State – no permanent penalty
 - LEA – Congressional intent agrees with ED’s 2012 “Letter to Boundy

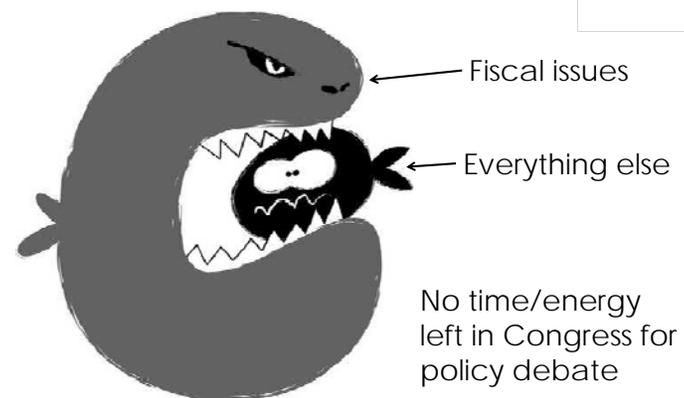
What’s Next for Federal Funding?

- Projected budget caps for FY 2014/FY 2015 represent **slight increases each year**
- Projected future increases in funding to account for inflation (1-2%) – but not more
- BUT this all depends on Congressional action
- Next fiscal debates:
 - Debt ceiling (this spring)
 - FY 2015 funding (this fall)

Policy Legislation

How Fiscal Issues Affect Policy

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Farm Bill



- Omnibus agricultural bill which authorizes some nutrition/commodities programs
- Passed Congress early February after one-year extension in 2012; failed 2013 reauthorization
- Reauthorizes existing feeding programs
- Extends Fresh Fruit and Vegetable program as-is
 - Pilot for five states to test integration of frozen, dried, and canned foods
- Creates new farm-to-school pilot in 8 States

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Education technology

- Several lawmakers have introduced bills focused on Ed Tech/STEM
 - Miller (D-CA): Transforming Education through Technology Act (H.R. 521)
 - Honda (D-CA): Stepping up to STEM Act (H.R. 1089)
- Sen. Rockefeller (D-WV) announced plans in FCC oversight hearing to pursue changes to E-rate connectivity subsidies
- President Obama announced "ConnectED" initiative in 2013
 - Announced public-private partnerships in 2014 State of the Union
 - Accomplished without Congressional action – through shifts in USF contributions and distribution
- FCC Released NPRM in July 2013 asking questions about how to modernize E-Rate, reply comment period closed in October 2013



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Workforce Investment Act

- Supporting Knowledge and Investing in Lifelong Skills (SKILLS) Act (H.R. 803) passed House of Representatives in March of 2013
 - Would "streamline" WIA by combining programs into flexible funding streams
 - Makes changes to formula, composition of WIBs, increases employer role
 - Partisan conflicts led to Democratic walkout during Committee markup
 - Companion bill introduced in Senate in January 2014 by Sen. Tim Scott (R-SC)
- Senator Patty Murray (D-WA) has circulated "discussion draft" of WIA reauthorization bill
- Unlikely to move forward in current Congress – lack of time/energy

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Child Care and Development Block Grant

- Last reauthorized in 1996
- Bipartisan reauthorization bill passed in Senate HELP Committee September 18 would:
 - Require States to conduct background checks of employees, including checking state criminal and sex-offender registries and state-based abuse and neglect registries
 - Require States to set aside more money to boost program quality (increasing from 4 percent of total now to 10 percent by 2018)
 - Ensure that program staff are trained in basic safety measures like CPR
 - Require States to check family eligibility for subsidies no more than once a year (focus on continuity of child care)
- No further action in Senate, no action to date in House

Early Education

- Administration plan announced in President's 2013 State of the Union address
 - \$77 billion in subsidized universal pre-K for low/middle-income families over next decade
 - Federal share paid for through increase in tobacco taxes (maybe)
 - States receive funding for adopting certain quality standards
 - Including class size, education level and pay of instructors, State-level inspections and audits, etc.
 - Federal share of costs drops from 90% to 25% over 10-year period
 - Mentioned again in 2014 State of the Union

Early Education

- Draft bills from House and Senate Democrats closely mirror President's proposal
 - Federal funding in exchange for increased State quality standards, smaller class sizes
 - Federal share decreasing from 90% to 50% of total cost
 - BUT no means of paying for increased federal contribution
 - No significant action so far



Early Education: Hurdles Ahead

- In Congress
 - Congressional gridlock generally
 - Specific conflict over expansion of federal role, questions over success of Head Start
 - How to offset cost
- At federal level
 - Need time/capacity to implement program
- At State level
 - Not every State will be able to meet standards right away – or be willing to do so
 - Increasing level of State support needed – will need to evaluate financial investment



ESEA Reauthorization: Senate

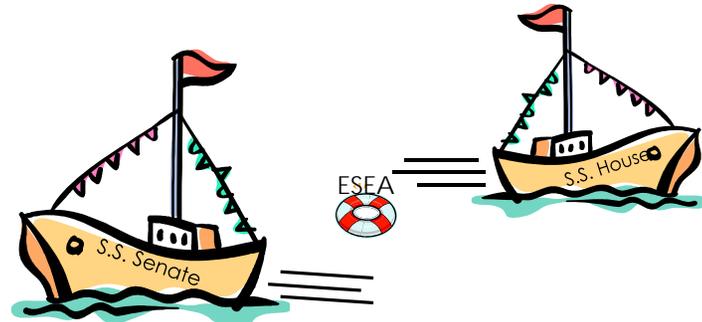
- Strengthening America's Schools Act of 2013 (S. 1094) passed out of Committee on party line vote June 12th
 - Based largely on waivers, October 2011 ESEA legislation
 - Requires States to adopt standards, assessments, performance targets
 - Sets "n-size" at 15 students
 - Increased data/reporting requirements (cross-tabulation)
 - Interventions in priority/focus schools
 - Adds personnel expenditures to comparability calculation
 - States must implement teacher/principal evaluations
- Committee Chairman Tom Harkin (D-IA) says he hopes to get it to the floor, but prospects still murky

ESEA Reauthorization: House

- Student Success Act in (H.R. 5) passed House of Representatives on July 19th
 - Similar to bills passed in 112th Congress
 - Eliminates AYP, HQT requirements
 - States would get to set own performance targets, little federal guidance
 - Teacher/principal evaluations required (with student achievement as a significant factor)
 - Overall smaller federal role

ESEA Reauthorization: overall

- Few similarities between bills mean conference/agreement unlikely
- Consensus: reauthorization will wait until 2015 or later



ESEA Waivers

Waivers Refresher

- Announced in June of 2011
- Came about following increasing pressure from States requesting some relief from NCLB
 - States speak out on unrealistic targets, CCSSO announces intention to seek waivers under waiver provisions in ESEA
 - ED compromises with some States (rewrite targets)
- Lack of significant movement on reauthorization in Congress meant ED was only means of relief

Waivers Refresher

- Offers States and districts relief from most onerous provisions of NCLB, including:
 - 2013-2014 deadline for proficiency
 - Requirement to offer choice/SES
 - More flexibility in implementing LEA and school improvement
 - More funding flexibility



Waivers Refresher

- In return, States must adopt four “principles for reform”
 - College and career-ready standards
 - E.g., Common core
 - Aligned with assessments that measure student growth
 - New school accountability systems
 - With “ambitious but achievable” AMOs
 - New teacher and principal evaluations
 - Used to inform personnel decisions
 - Multiple measures, including student achievement
 - Reducing duplication and unnecessary burden

What do waivers mean to Congress?

- Good: may push Congress to seek own solution
 - Waivers won’t work for every State
- Bad: may take pressure off Congress
 - Temporary solution buys time for some States, ED
 - BUT take attention off current reform efforts
- Ugly: create conflict with Congress
 - ED circumventing legislative process with legally questionable waivers?
 - Chairman Kline and Rep. Hunter have asked for justification for conditional waivers, questioned legality

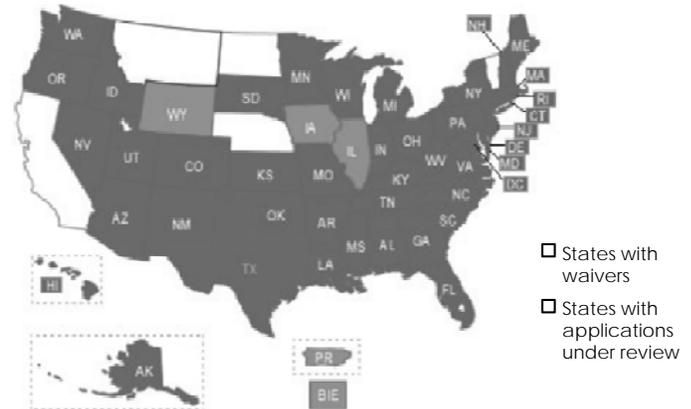
What do waivers mean to ED?

- Work for administration priorities
 - Demonstrate Congressional ineffectiveness/partisanship
 - Encourage States to adopt and implement administration priorities and policies
 - E.g. Common Core, teacher evaluations
 - Frame policy debate on reauthorization
 - Large number of States adopting policy priorities for waivers mean they’re the path of least resistance
 - Influenced 2013 Harkin ESEA bill

Waivers so far

- 42 States and DC have been approved for waivers
 - Many waivers “conditional”
- ED says another 3 States plus PR and BIE have waiver applications under consideration
 - ED working on “rolling” deadline
- Have not applied:
 - Vermont (withdrew waiver application)
 - Montana (officially said “thanks but no thanks”)
 - North Dakota
 - Nebraska
 - California (???)

Waivers so far



New “CORE” Waiver

- Sec. Duncan repeatedly said he preferred to work with States
- However, in August 2013, ED granted waiver to nine California school districts known collectively as CORE (California Office to Reform Education)
- No explicit district waiver procedure, so districts used State-level procedure, documents
- Many Governors, chiefs complained this “circumvented” State authority
- Application leaves many questions of administration/accountability unanswered

Additional Waivers: Evaluations

- Teacher evaluations
 - ED announced in June of 2013 that States could postpone using student growth on state tests as a factor in personnel decisions for up to one additional year (until SY 2016-17).
 - Applies only to States that received waivers before summer 2012
 - Arose out of concerns about simultaneously piloting new assessments and trying to incorporate student growth
 - And pressure from CCSSO, other organizations
 - Mixed reviews from members of Congress
 - “waivers from waivers” (Sen. Alexander)

Additional Waivers: Testing

- Double-testing
 - Announced in June, but guidance not released until September 2013
 - States can give either their own tests or a consortium field test
 - BUT each student must take a “complete” test in both math and English/language arts
- States that use the field tests will not be required to report results
 - BUT States and LEAs must continue to report results, including progress toward goals, for students who take the state’s own tests.
 - All States must report participation rates
- States can request additional “determination flexibility”
 - Allows them to hold their schools’ accountability designations steady for a year

What’s Next for Waivers: Renewals

- Announced April 2013
- States who submitted applications for waivers (and were approved) in first two windows eligible for renewal for two more years
 - Waivers would now go through SY 2015-16
 - Applications start January 2014
 - Indicates ED does not have faith in ESEA reauthorization before SY 2015
- Renewals must report on progress, explain how States will resolve any implementation issues to date, show compliance with “principles for reform”

What’s Next for Waivers: High Risk

- Three States’ waivers labeled “high risk” in August 2013:
 - Kansas
 - Oregon
 - Washington
- All received conditional waivers in 2012
- All reportedly have to “work on” teacher/principal evaluation systems
- If not in compliance with waivers by end of 2013-14, ED says it will revoke waivers

What’s Next for Waivers: High Risk

- Can ED put a waiver on high risk status?
 - Critics say no (overstepping already shaky authority)
 - ED (and others) say yes
 - Cite EDGAR provision regarding high-risk grantees (34 CFR 80.12), which says a high-risk grantee is one that:
 - Has a history of unsatisfactory performance, or
 - Is not financially stable, or
 - Has a management system which does not meet the management standards set forth in this part, or
 - **Has not conformed to terms and conditions of previous awards**, or
 - Is otherwise not responsible

The next High-risk Grantee?

- Arizona also battling with ED over waiver
- Conditional approval of waiver required:
 - State to increase weighting of high school graduation rates in school rankings from 15 to 20%
 - State to implement use of student growth in teacher/principal evaluations
- Both items on October agenda for State board
 - BUT Superintendent, Department not enthusiastic about making changes
- Next logical step for ED if conditions not met is high risk status/revocation of waiver

Will ED Revoke Waivers?

- Hawaii's Race to the Top Grant
 - Promised to implement teacher and principal evaluations with student growth as condition of grant
 - Problems with evaluations, also assessments, data systems
 - ED put full \$75 million RTT grant on high risk status in December 2011, threatened repayment
 - Part of high-risk status related to assessments/data lifted February 2013
 - Contract finally approved in April 2013
 - High risk status cleared
 - Hawaii granted ESEA waiver May 2013



Will ED Revoke Waivers?

- Sec. Duncan says YES!
 - At Council of Chief State School Officers meeting in November 2013, said that would likely "have to revoke" "two or three" by summer 2014
 - In January 2014, revoked \$9 million Georgia Race to the Top grant because of disagreement on how student achievement integrated into teacher evaluations

What's at Stake for ED



- Can't approve something too far afield from "principles"
 - Prompts worries of unfairness, complaints from other States
- Politically risky to revoke waivers
 - Would send States back to NCLB as written
 - Would provoke backlash from States, Congress

Looking ahead to 2015

Musical Chairs

- Important education-related retirements
 - Sen. Tom Harkin (D-IA)
 - Chairman of Senate Committee on Health, Education, Labor, and Pensions (HELP)
 - Chairman of Appropriations Subcommittee on Labor-HHS-Education
 - Possible replacement: Patty Murray (D-WA)?
 - Rep. George Miller (D-CA)
 - Ranking Member on House Committee on Education and the Workforce
 - Possible replacement: Rob Andrews (D-NJ)?
 - Sen. Jay Rockefeller (D-WV)
 - Chairman of Senate Committee on Commerce, Science, and Transportation

Musical Chairs

- Significant numbers of Representatives/Senators retiring
 - Especially long-term members
- Huge electoral turnover
- Shift in Committee leadership
- New staff, new priorities, new relationships!
- Future TBD

Overall Predictions

- Continued focus on fiscal issues and other must-pass legislation
- Continued gridlock through the end of 2014 makes significant movement on policy legislation unlikely
- After 2014: ??????



Disclaimer

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