

Survival of the Fittest

THE CONGRESSIONAL CALENDAR
AND FEDERAL LEGISLATION IN 2016

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LEADERSHIP BATTLES

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In vs. Out for 2016: Political Edition

Out:

- John Boehner's Tan
- Debt Ceiling Debate
- House/ Senate debates
- K-12 Education
- No Child Left Behind
- Legislation

In:

- Paul Ryan's Beard
- Entitlement Reform
- Presidential Debate
- ?????
- Every Student Succeeds Act
- Regulations

h/t to [ASCD](#)

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Also known as...



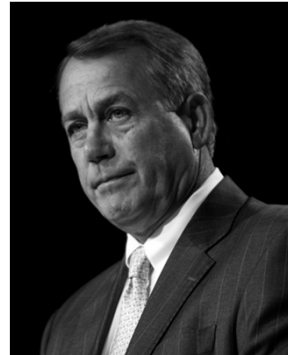
Game of Thrones ?

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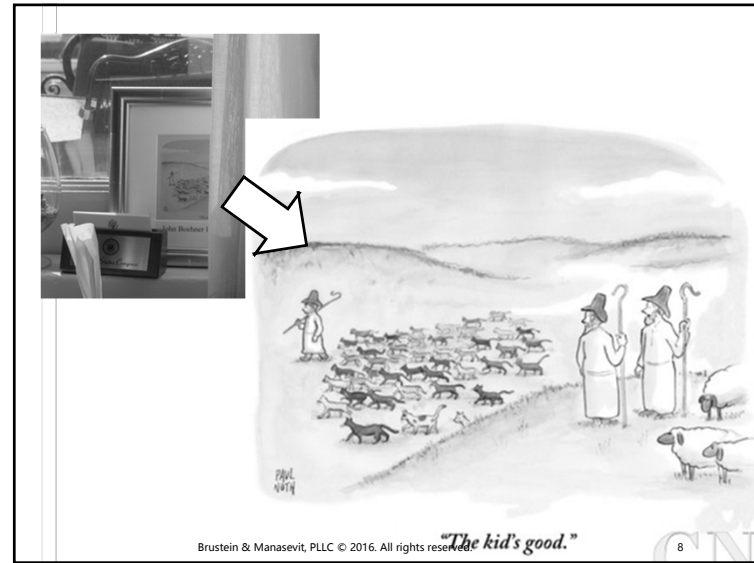
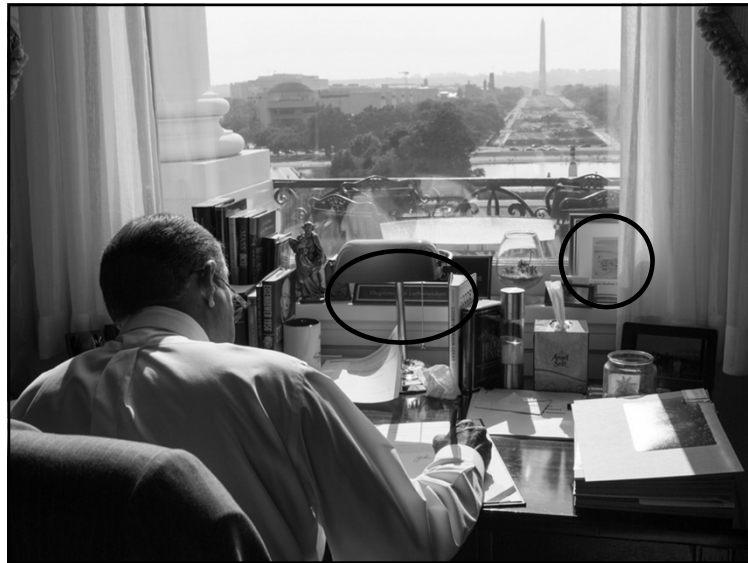
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The Deposed Ruler

- Conservative Republicans in Congress suggested they would force a no-confidence vote in Speaker John Boehner (R-OH)
- Boehner then announced he would leave his position – and Congress – by the end of October

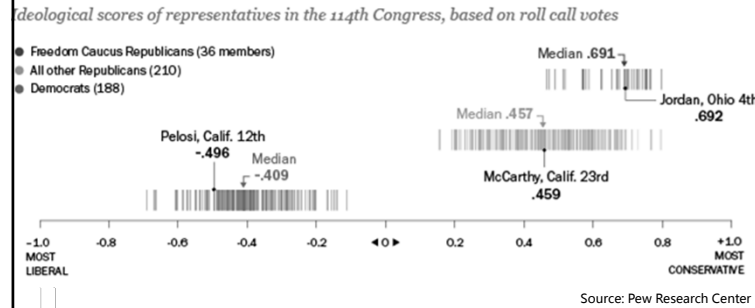


"Illegitimi non carborundum"



The Rebel Army

Typical Freedom Caucus Member Is More Conservative Than Other Republicans



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The Presumptive Replacement

- After attack from HFC, McCarthy withdrew from race, leaving GOP without clear leader



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The Presumptive Replacement



- Majority Leader Kevin McCarthy was Boehner's pick for replacement
- Also next in "line"
- But McCarthy had trouble garnering sufficient support from conservative Republicans in House Freedom Caucus (HFC)
– Painted him as Boehner 2.0

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The Other Candidates



- Jason Chaffetz (UT) – current Chairman of House Oversight and Government Reform Committee
- Daniel Webster (FL) – leader in House Freedom Caucus
- Steve Scalise (LA) – current Majority Whip
- Newt Gingrich
– Said he would come out of retirement
- No one?
– Republicans suggest temporary "caretaker" if no candidate can be found

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The Reluctant New Leader



- Paul Ryan (R-WI) originally not a candidate
- Many, including Boehner, reportedly urged him to run
- In exchange, Ryan extracted a number of concessions:
 - *Would not have to campaign*
 - *Would not have to fundraise*
 - *Would not have to stay in DC on weekends, summer*
 - *Change caucus rules to limit ability of HFC to remove him*
- Elected Speaker on 10/29

What does Ryan mean for education?

- As chairman of House Budget Committee, pushed for across the board spending cuts
 - *Wants to cut ED staff, calls ED "fragmented and ineffective"*
- Wants to streamline/cut federal education programs
- As vice presidential candidate in 2012, supported school choice
- Supported House ESEA bill
 - *Critical of ESEA waivers: "States are beholden to a set of federal requirements that were crafted without congressional approval"*

"Cleaning the Barn"

- In days leading up to Speaker election, Boehner attempts to move controversial and/or personally meaningful legislation
 - *Reauthorization of DC voucher program*
 - *Legislation to raise debt ceiling*



PROGRESS ON SPENDING

FY 2016 CR

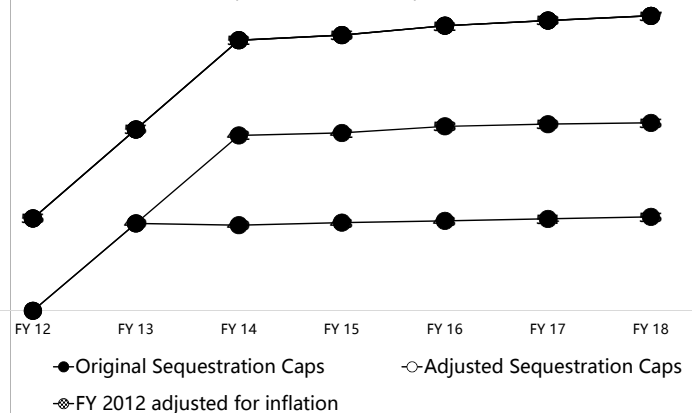
- FY 2015 Appropriations expired on September 30, 2015
- In days and weeks leading up to deadline, conservative Republicans indicated they wanted to make appropriations conditional on de-funding Planned Parenthood
- Boehner negotiated deal with conservatives to pass "clean" CR (with no policy changes)
- Funded all programs at FY 2015 levels, minus 0.2108% through December 11th

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Non-Defense Spending Caps

(in billions of dollars)



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A New Budget Deal

- Two-year deal (like 2013 deal)
- Delays debt ceiling debate until 2017
- Offsets projected changes by extending sequestration by two years (now through 2025)
- Additional cost offset: repealing ACA auto-enrollment requirement
- Increases allowed funding for non-defense discretionary by \$25 billion in FY 2015 and \$15 billion in FY 2016
 - No requirement for appropriators to spend this

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FY 2016 Appropriations

- Omnibus appropriations bill passes December 18th
 - *Funds government through September 30, 2016*
- Policy riders: ending oil export band, toughening visa requirements
- Overall: small increase in funding (2-3% on average; varies by program)
 - *Title I increases \$500 million to \$14.9 billion*
 - *IDEA increases \$415 to \$11.9 billion*
 - *Perkins level-funded*
 - *AEFLA increases by \$13 million to \$582 million*

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What's Next?

- Congress wants to pass individual appropriations bills and send them to President's desk
 - *Based on budget deal*
 - *Hasn't been done in years*
- Debate over policy riders will return
 - *May be different issues*
- BUT election complicates timeline and makes CR more likely

Every Student Succeeds Act

- ESSA signed into law on December 10th, 2015 after nearly a year of debate and vote
- Much more work on implementation to come!



SOME PROGRESS ON POLICY

Every Student Succeeds Act

- Looks a lot like No Child Left Behind:
 - *States choose standards and assessments, work towards goals*
 - *Student achievement is reported out by subgroup*
 - *Schools and districts are held accountable for subgroup performance*
 - *Funding flows from ED to States to districts to schools*
 - *Maintains major formula grant funding streams (and many competitive programs too)*

Every Student Succeeds Act

■ Key Differences

- *States now in the driver's seat*
 - Much more authority to make decisions, choose standards and assessments, goals, and means of accountability
 - States also responsible for enforcing many requirements
 - (though subject to ED regulation)
- *The "big acronyms" have been eliminated*
 - No more AYP, HQT, or SES
- *New limitations on Secretarial authority*
 - Especially around State plans, waivers
- *Consolidates/eliminates a number of smaller grant programs*

Child Nutrition

- Improving Child Nutrition Integrity and Access Act of 2016
 - *Increases verification sample size to 10%*
 - May be reduced if LEA meets certain targets
 - *New FFVP "hardship exemption" to serve all forms of fruit/vegetables for up to 3 years*
 - Gradually reduces amount of frozen/dried/canned foods allowed
 - *Flexibility on meals:*
 - Whole grain requirement decreases to 80%
 - No requirement to implement tiered sodium reduction targets until 2019 (2-year delay) and then study will be done to determine feasibility
 - *Changes dates for publication of new rates, other requirements earlier in the year. Sets timelines for publishing regulations.*
 - *Passes unanimously out of committee on January 20th, 2016*

Child Nutrition

- Healthy, Hunger-Free Kids Act Expired September, 2015
 - *Extended through appropriations bills*
- Lots of false starts for reauthorization
 - *Markup scheduled for September 2015, then cancelled*
 - *Expected to be rolled into omnibus appropriations bill*
- Text of bill released January 18th, 2016
 - *Markup scheduled for January 20th*



THE ELEPHANT(S) IN THE ROOM

Election 2016

- All of House is up for reelection
- 1/3 of Senate campaigning
- Most importantly: Presidential campaign
- Candidates in Congress include:
 - *Sen. Ted Cruz (R-TX)*
 - *Sen. Marco Rubio (R-FL)*
 - *Sen. Rand Paul (R-KY)*
 - *Sen. Bernie Sanders (D-VT)*



Education Issues for the Candidates

- Bush
 - *Focus on Common Core*
 - *Charters and other avenues of school choice also important*
- Fiorina
 - *Supports vouchers, charters*
 - *Critical of Common Core*
- Paul
 - *Wants to get rid of Common Core*
 - *Supports charters, vouchers*

Education Issues for the Candidates

- Sanders:
 - *Free college (or drastically reducing college costs)*
- Clinton:
 - *New Focus on autism*
 - Pass "Keeping All Students Safe" Act
 - Strengthen U.S. Department of Education guidance to protect students in special education from bullying
 - Launch a new "Autism Works" initiative to help students with autism find employment after high school
 - *Charters should serve as a "supplement, not a substitute" for traditional public schools*
 - *No teacher evaluations based on student test scores*
 - *Focus on early education*

Education Issues for the Candidates

- Christie
 - *Signed on to Common Core as governor, but says he now regrets it*
 - *Supports charter schools (and for-profit charter school operators), vouchers*
 - *Wants greater transparency in college tuition*
 - *Should refocus student financial aid for lower income students*
- Carson
 - *Supporter of charters, "market-based" reforms*
 - *Wants to get rid of Common Core*

Education Issues for the Candidates

- Rubio
 - *Against Common Core*
 - *Pro-vouchers, charters, school choice*
 - *Reform college accreditation*
 - *Income-based student loan repayment*
- Trump
 - *Supporter of charters, choice*
 - *Dislikes Common Core*
 - *Wants to shrink Department of Education*
- Cruz
 - *Wants to repeal Common Core*

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Education Issues for the Candidates



- No Child Left Behind being overturned negates several key issues:
 - *Vouchers*
 - *Common Core*
 - *Teacher Evaluations*
- Leaves:
 - *Size of Department of Education (also partially addressed in ESSA)*
 - *Student loans*
 - *Others???*

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- | | |
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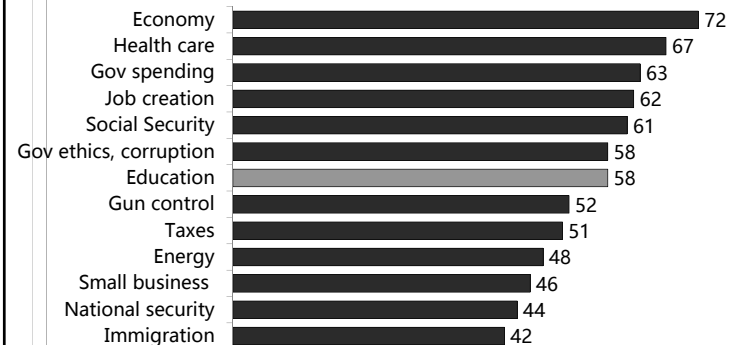
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How will this election be decided?

"I'm now going to read you a short list of issues in the news. For each, please tell me how important that issue is in terms of how you will vote in the next congressional election." *Showing Very Important*



Source: Rasmussen; June 2014

What happens in Congress during an election year?



- All actions taken from perspective of campaign to:
 - *Solidify support from base*
 - *Avoid potentially controversial issues/votes*
 - *Good publicity/sound bites*
 - *Will it raise candidate's profile?*

What does this mean for education?

- Look at issue and ask:
 - *Who is it important to?*
 - How many of them are there? How likely are they to vote? Do politicians care about their vote?
 - *How important is it to voters?*
 - Will it drive votes?
 - *How marketable is it?*
 - Can you boil it down to a soundbite?
 - *What is the risk?*
 - Will wading into the issue cause more problems than it garners votes?

What happens in Congress during an election year?



Election's Impact on Legislative Timeline

- Election means majority party will want to delay passage of important legislation as long as possible
 - *If Republicans expect to win White House, want to delay passing important legislation until new President is in office*
 - *If Republicans don't win; or if they lose House/Senate, can still pass legislation during lame duck session*
 - *Includes:*
 - Potentially partisan policy legislation
 - Appropriations bills



LIKELY LEGISLATIVE PRIORITIES?

Policy

- Senate Committee “principles” for reauthorization:
 - *Make CTE programs easier to administer*
 - *Increase access to career counseling for CTE students*
 - *Maintain CTE as a formula program (not a block grant)*
 - *Align with ESEA and WIOA*
 - *Support the expansion of public/private collaborations*
 - *Integrate into career pathways at state and local levels*
 - *Address unfunded programs*
 - *Support innovation and best practices*

Policy

- Carl D. Perkins Career and Technical Education Act
 - *Last reauthorized in 2006, reauthorization due 2013*
 - *Senate effort being led by Mike Enzi (R-WY) and Bob Casey (D-PA) of HELP Committee*
 - Solicited input via e-mail in October 2015
 - *House Committee held first of an anticipated series of hearings in October 2015*
 - *Relatively uncontroversial, so good candidate for quick movement in down time (like WIOA)*

Policy

- Higher Education Act
 - *Both House and Senate have solicited input and held hearings*
 - *Will be controversial because of the issues with student financial aid, college ratings, for-profits, etc..*
 - *Save for non-election year?*

Policy

■ Individuals with Disabilities Education Act (IDEA)

- *No progress to date*
- *No indication of push to reauthorize*
- *Major issue is federal share of funding, not contents*
- *In purgatory*



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- **Every Student Succeeds Act**
- **Regulations**

h/t to [ASCD](#)

THE SHIFTING BATTLEFRONT

ESSA Regulations

- ED held public meetings on 1/11 (DC) and 1/19 (Los Angeles)
 - *Soliciting input on where regulations are needed*
- Negotiated rulemaking required on several issues
 - *Including Supplement-not-Supplant, standards, assessments,*
 - *Dates and process TBD*
 - *If negotiated rulemaking process fails, new language allows Congress advanced review and comment period for regulations ED drafts instead*
- Other regulations to be issued at some point in 2016

Studies

- Law requires Institute for Education Sciences (IES) to conduct a number of studies:
 - *Title I formula*
 - Must study the effectiveness of the four Title I formulas and consider the impact of number and percentage weighting
 - Must enumerate impact on 12 types of locales as classified by NCES
 - 18 month timeline
 - *Sample size ("n-size")*
 - Must publish and disseminate a report on best practices for determining subgroup size
 - 90 day timeline

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ESSA Oversight



- Lamar Alexander (R-TN) told C-SPAN he expects the federal role to be "very different" under ESSA.
- HELP Committee reportedly planning at least three oversight hearings on ESSA regulation in the coming year.

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A New Trend: Congressional Oversight of Regulations

- Legislation in recent years has trended toward more direction of agency activities and less agency discretion, e.g.:
 - *Improving Child Nutrition Integrity and Access Act of 2016 (PROPOSED) sets even more specific deadlines for interim/final regulations, advisory committees, dates for annual guidance/pricing*
 - *ESSA requires negotiated rulemaking on certain topics*
- REINS Act (PROPOSED!) would require any executive branch rule or regulation with an annual economic impact of \$100 million or more to come before Congress for an up-or-down vote before being enacted

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ESSA Oversight

- New regulatory authority for Congress:
 - *Negotiated rulemaking required on some issues*
 - Sometimes this process fails to obtain consensus
 - *If ED issues regulations following a failed negotiated rulemaking session, it must:*
 - Provide an advanced draft of those regulations to Congress
 - Provide Congress with a special comment period

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