

# July NREAC Meeting Notes

Sasha Pudelski, July 16, 2015

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Congress has adjourned for their August recess. There's a lot left for them to deal with once they get back, but them being in the home district is a prime opportunity to make contact with them. Set up a meeting, make a call, invite them to visit your district. We have a 'Recess Call to Action' embedded below.

## Your Advocacy Matters

- When it comes to advocacy, your voice matters. No one is better positioned to tell your district's story than you are, and in a time where Congress is driven by anecdotes and a desire to pull a story out of their back pocket, why not have them tell YOUR district's story? They make these decisions whether you weigh in or not; help them make the better decision.
- The nation's public schools are the largest employer in the country. No one employs more people than the nation's schools. At the local level, most of you work for your community's single largest employer. That is an important role, something you can and should leverage in your advocacy.
- Beyond the size of local education agencies (LEAs) as employers, school system leaders are uniquely positioned: Not only are you all positioned to detail the impact of policies on your school; you are also in direct contact with a series of other important constituencies. In you, elected officials have an education expert and a community leader, someone who can report on the students, parents, local business, community trends, and more.
- Do not underestimate the importance of your role in advocacy!

**Congressional 'To Do' List, Fall 2015:** Congress does not enjoy a stellar reputation, something public opinion polls bolster. When they come back from recess this year, their 'to do' list for the remainder of 2015 is intense, and that is putting it politely. See related [Politico Article](#). Post-Labor Day thru the end of 2015, here's what's on their dance card:

- A continuing resolution to avoid a government shutdown. This would need to be completed by September 30. More on this in the appropriations section, below.
- The debt ceiling – deadline now not until November/December
- Tax extenders that expire on December 31
- The highway bill, which will expire again on October 31
- Export-Import bank – already expired
- Budget reconciliation related to repealing the Affordable Care Act
- The ESEA conference
- The conference report on the Defense authorization bill.
- The Iran nuclear deal – a 60-day clock is ticking
- Other issues including cybersecurity, the CURES bill, Toxic Substances Control Act rewrite, energy legislation, etc.

**Recess Call to Action:** There's a lot for them to work on this fall. It's important that your FULL delegation hear from you and your colleagues while they are home to visit. With that in mind, here

are the top-line messages to carry to them. Please make sure to check back to the blog, as the ESEA-related items will be increasingly detailed as we get into and through ESEA conference.

- ESEA: Contact your full delegation about ESEA Conference (full details below). The asks are simple. Reaching out to both your Senators and your Representative, please relay:
  - Complete ESEA Reauthorization. We need Congress (both sides of the Hill, both sides of the aisle) to work together to deliver our nation's schools and the students they serve a comprehensive reauthorization of ESEA. It is imperative that members support the deliberate work of the ESEA conference committee and vote for ESEA reauthorization. (There are some caveats to this, namely the inclusion of vouchers, but those chances are slim and we would communicate with you about those.)
  - When it comes to conference specifics, use this list to relay priority positions:
    - NO to vouchers and portability.
    - NO to expansion of federal accountability. We support what was in the Senate ESEA bill, and would be opposed to efforts to increase federal mandate/prescription in accountability, which would represent a step back to AYP 2.0 and high-stakes testing.
    - Alternate Assessment: Maintain current law. The Senate bill includes language that would limit the number of students who can take alternate assessments at 1%, a significant tightening of current law, which allows students to take the tests determined appropriate by the IEP team, but only using 1% of alternate assessments in accountability.
    - Maintenance of Effort: We support current law, as written in the Senate bill. We are opposed to the House bill, which eliminates MoE.
    - Funding Caps: ESEA is authorizing statute, and the authority to determine program funding level should rest with the appropriators, those in charge of allocating federal dollars. We are OPPOSED to the House version's funding caps.
- School Nutrition
  - Increase reimbursement rate by 10 cents per meal to offset some additional spending required by increased nutrition standards.
  - Return whole grain requirement to 50% from current 100%.
  - Keep sodium limit at Target I, cancelling increases planned in 2017 and 2022.
  - Allow anything that can be sold as part of the reimbursable meal to be sold a la carte, no matter the day of the week.
  - Change fruit and vegetable requirement from "must take" to "may take" to allow students to only take fruits or vegetables they intend to eat, which will decrease plate waste and wasted spending.
- IDEA Maintenance of Effort
  - Legislation to make critical improvements to IDEA's maintenance of effort provisions was introduced in July by Rep. Walberg (R-MI). The bill is called the Building on Local District (BOLD) Flexibility in IDEA Act (HR 2965). The bill would do the following:
  - Allow districts to reduce MoE if they can demonstrate that they are increasing the efficiency of their special education programs and there is no impact on the provision of special education services to students
  - Allow Districts to reduce MoE if they can demonstrate the reduction in expenditures is related to employment-related benefits provided to special education personnel (such

- as pay, retirement contributions, health insurance, etc) as long as the reduction does not result in a reduction in special education services to students.
- Allow districts to apply to the State for a waiver to reduce MoE if they are facing a serious financial crisis. Waivers will only be granted to districts if they provide evidence they are providing a free appropriate public education to all eligible students.
- Ask your House members to co-sponsor the BOLD Flexibility in IDEA Act (HR 2965). Ask your Senators to introduce companion legislation.
- Appropriations/Sequester:
  - Congress must work to resolve/replace the sequester. If they cannot do that, they must ensure continued parity between defense and non-defense discretionary funding. That is, defense discretionary should not be exempt at the direct expense of non-defense discretionary funding, which includes education.
  - If Congress cannot/will not replace sequester, they need to at least negotiate a budget/appropriations compromise (much like the Murray/Ryan budget deal) that raises the current funding caps to ensure that our programs don't continue to struggle at sequester level caps.
  - OPPOSE House and Senate LHHS proposals and work with colleagues to negotiate a budget deal that raises the overall funding caps.

**ESEA:** Context matters when it comes to ESEA, and as of mid July, we emerged (relatively unscathed, if not battle weary) from a scenario of 'The Dunce and the Golden Child'. Both the House and the Senate have ESEA proposals that have passed out of committee and their respective chamber's floor. This is the furthest ESEA Reauthorization has come in 8 years of trying! The House had the easy path: Remember, this is the same chamber that has passed more than 15 bills related to repealing the affordable care act. One would think they could re-pass a party-line ESEA bill. They planned to move their party-line bill, a repeat from the 113<sup>th</sup> Congress, on the floor in February. They needed a simple majority, which should be a given, since it was a Republican bill in a Republican House. But, alas. The wheels fell off and we were back to the drawing table. The House finally passed their bill on Wednesday July 8.

The Senate had a more deliberate path: While the Republicans also hold a majority in the Senate (54 of 100 seats) their procedural rules would require a vote of 60 to pass a bill, meaning their bill has to be more bipartisan. Senate HELP cmtte Chairman Alexander (TN) and Ranking Member Murray (WA) rolled up their sleeves and did the hard work in committee, and passed a bipartisan bill through committee —UNANIMOUSLY—in April. That is the bill that is on the floor last week, a bill that passed 81-17.

AASA endorsed both bills. The House bill is a good start, and the Senate bill is a very good, solid bill (and significant improvement over the House bill). We are pushing no major amendments for improvement in either and are working to defend against problematic amendments (Title I portability, elimination of maintenance of effort, and serious funding caps) that are properly addressed in the Senate bill.

**What's In the Bills?** The 'meat and potato' issue for AASA is ensuring an accurate and appropriate balance between state, local and federal government. Current law is ripe with federal overreach and

prescription, and both the House and Senate bill are significant improvements in current law, taking the pendulum of federal overreach and prescription and swinging it firmly back to state and local control/expertise.

- Standards, Accountability and Assessments were the big focus. It was hard to anticipate AASA endorsing any bill that didn't improve these elements of the bill.
  - Both bills maintain that state must have high standards, must have assessments and must have accountability. Beyond that, though, the new version is extremely pared down:
    - Standards: states are free to adopt standards or create their own (gone are the incentives used by the administration during waivers and RttT)
    - Assessments: No changes in current law. Both versions maintain annual assessment in math/ELA for grades 3-8 and once in high school; three times for science, once in each of the grade spas (3-5, 6-8, and 9-12)
    - Accountability: The ONLY federal parameters that states MUST include are continued data disaggregation and graduation rates. Both bills eliminate adequate yearly progress, annual measurable objectives, supplemental educational services, 100% proficiency and highly qualified teachers.
      - States are free to keep or remove any elements they may currently have in place, whether as part of an ESEA plan, a waiver plan or a RttT application.

#### ESEA Resources

- [ESEA One-pager](#) (from advocacy conference)
- AASA Blog on House Passage: <http://aasa.org/aasablog.aspx?id=37614&blogid=286>
- AASA letters for House and Senate bill, and side-by-side summary: <http://aasa.org/aasablog.aspx?id=36517&blogid=286>

**Title I Funding Formula:** Related to a cause near and dear to this group's heart, and update on the status of the conversation related to updating the Title I formula. You'll recall that an element of the All Children Are Equal Act (ACE) was built into the base of the House bill. Basically, the House bill opens up the Title I formula by reducing the weights associated to number weighting by .01%. The Senate bill takes a completely different approach, striking the four formulas and combining some elements back into one element. The Senate approach (detailed on [the blog](#)) does maintain number weighting, which remains a concern. The Senate formula only kicks in for (and applies to) dollars at and above \$17 billion, so we are presumably years away from this change. AS you talk to your Congressional delegation, please continue to reiterate the importance of accurately targeting critical Title I dollars to concentrations of poverty.

Number weighting gives a big boost in student count to a large LEA even if it has a low percentage of poverty while small LEAs, even with higher poverty rates, get no benefit from number weighting. Since the Title I formula distributes a fixed appropriation, all funds gained by LEAs that benefit from number weighting are at the direct expense of those LEAs that do not. As a result, all small and moderate sized LEAs with high poverty rates receive far less than they would if all Title I dollars were distributed to LEAs based on the concentration of students in poverty (percentage weighting). Some

of the highest poverty LEAs are disadvantaged so much by number weighting that they receive less than if there were no weighting system at all. This reality runs counter to Congressional intent and negates the fact that poverty is poverty and all children should be treated equally under the law.

**Appropriations:** Congress made it further in the traditional appropriations process than they have since 2009. They have managed to move stand alone appropriations bills, but you will recall that both the House and Senate FY16 LHHS bills were unacceptable. AASA, NREA and NREAC sent joint letters. You can [read the letters](#) on the blog (House and Senate).

AASA Executive Director Dan Domenech released a statement in response to the House numbers: “The House released an LHHS appropriations bill, detailing proposed funding levels for federal health, education, and labor programs, among others. While this represents the first time in a handful of years that the committee has provided this level of detail in a public manner, we are deeply disappointed in the Committee—and the House in general—for continuing to deeply undermine the work of the nation’s schools by allocating deep, damaging cuts. We would normally applaud and welcome the proposed \$502 million increase for IDEA (among others) as critical and well past-due. In the context of broader cuts and freezes that run deeper than any IDEA increase can cover, though, this is an appropriations bill focused on cutting funding to our nation’s schools and disinvesting in the future. We understand the importance of fiscal responsibility and have meaningfully engaged in conversations around spending cuts, restraint, revenues and more. There are two sides to responsibility, though, and cuts of this magnitude are deliberate and irresponsible.”

These bills are unacceptable to Democrats and the President, meaning that Congress has to enter negotiations to shape a final appropriations deal that prevents a shut down and keeps the government running. This will likely come in the form of a short term Continuing Resolution, a way to buy some time for whatever negotiations are underway. With Congress out of town, these discussions won’t start until September and there are only 10 legislative days remaining before the end of FY15. Fiscal constraint is further compounded by the very real threat that Congress—in acting on any of the items on its to-do list—does so before the CR expires and uses up any offsets/pay-fors with those bills, leaving them unavailable for raising the caps.

Grassroots Sequester Letter: You will recall that AASA and NREAC have been very active in their efforts to urge Congress to avoid, repeal and replace sequester. We have advocated against it since before it was law and remain involved in ongoing efforts to spur Congress to repeal/replace the very failed policy they themselves wrote into law.

As such, we have once again signed on to the NDD (Non Defense Discretionary) Coalition letter, which is open to national, state and local associations and agencies (but NOT individual people). NREAC has signed on to this letter, in conjunction with our friends at AESA, NREA, and AASA. You can also sign on your state affiliate and individual district, but must do so by Aug 21. Details [on the blog](#).

**Overtime Regulations:** Last month, President Obama [announced his proposal](#) to raise the overtime salary threshold under the [Fair Labor Standards Act](#) (FLSA), which would extend overtime protections to nearly 5 million Americans next year. In his executive order, President Obama

instructed the Department of Labor (DOL) to make specific changes to the FLSA, [including raising its current salary threshold for overtime pay](#) from \$23,600, which is below the poverty level for a family of four, to \$50,400. In other words, workers who earn less than this new threshold must be paid time and a half for each hour they work beyond the typical 40-hour work week. Check out the [AASA blog](#) for a summary and set of resources detailing what these changes could mean for your district.