Status of ESEA, IDEA, Perkins, AEFLA and WIA Reauthorizations

Leigh Manasevit, Esq.
lmanasevit@bruman.com
Michael Brustein, Esq.
mbrustein@bruman.com
Brustein & Manasevit, PLLC
www.bruman.com

Spring Forum 2013

ESEA…
This Law Failed, So Change it, Maybe?
Without Reauthorization?

Where’s Waldo?
Mentions of NCLB are going, going…
...gone.

2008 2012

Education Committees
House Education & Workforce
Chairman John Kline (R-MN)
Ranking Member George Miller (D-CA)

Senate HELP Committee
Chairman Tom Harkin (D-IA)
Ranking Member Michael Enzi (R-WY) to
Lamar Alexander (R-TN)

Reauthorization Under Obama White House and Duncan Department of Education
**Race to the Top (RT)**
- Began with ARRA
- Virtually no Congressional direction
Race to the Top (RTT)  
State: 3 Phases
• Lengthy applications – hundreds of pages
• Over 40 items for scoring

RTT – State Priorities
• Educational Reform
• Stakeholder Support
• Raising Achievement
• Closing GAP
• Common Standards
  o High Quality Assessments

RTT – State Priorities (cont.)
• Improved Data
• Teacher and Principal Effectiveness - Achievement
• Lowest Achieving Schools
• Charters and Other Innovative Schools
School Improvement Grants (SIG) 1003g

- Before ARRA...
  - Existed as small program (Since NCLB)
  - Statute is 1.25 pages long –  
  - Directs use of funds for lowest achieving schools

SIG 1003g

- After ARRA...
  - Nearly 90 pages of “guidance”
  - Mandatory definitions for school eligibility
    - “Persistently lowest achieving schools”
    - Tiers 1-3

SIG 1003g

- 4 mandatory turnaround models
  - Turnaround
  - Restart
  - Closure
  - Transformation  
    (Emphasis on High School graduation)
SIG 1003g

- Flexibility on Basic Title I Requirements
  - Schoolwide
  - Title I “Eligible”

Faux Reauthorization: Waivers

June 28, 2011 Congressional Research Service (CRS) Report on Secretary of Education’s Waiver Authority

1. ED has the authority to waive accountability provisions of Title I, Part A
2. It is unclear if Secretary can condition a waiver on other action(s) not required by law
“ESEA Flexibility”
September 23, 2011

- 10 provisions subject to waiver - all or nothing
  1. 2013-2014 timeline
  2. School improvement consequences

---

“ESEA Flexibility”
September 23, 2011

- 3. LEA improvement identification
- 4. Rural LEAs
- 5. Schoolwide

---

Waivers

- 6. School Improvement
- 7. Reward Schools
- 8. HQT Improvement Plans
- 9. Transferability
- 10. SIG
Waivers

• Optional #11
  o 21st Century Community Learning Centers

New Waiver #12

• No AYP determination for LEAs or Schools
  o New optional waiver from March 2013 FAQ Addendum

New Waiver #13

• LEA may serve Title I eligible priority high school with graduation rate under 60% without regard for rank and serve
Waiver states

- 34 States and the District of Columbia:
  - Arkansas, Arizona, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, Wisconsin

Waivers pending

- Alabama
- Alaska
- Hawaii
- Illinois
- Maine
- New Hampshire
- Pennsylvania
- Texas
- West Virginia
- Wyoming

Waivers withdrawn & Rejected

- Rejected:
  - California
  - Iowa
- Withdrawn:
  - North Dakota
  - Vermont
Non-waiver states

- Montana & Nebraska have not applied for a waiver

---

Carryover Waiver Limit - Waiver

- SEA authority to waive Title I A
  - 35% carryover limit
- ED Waiver to SEA once per 3 years
- For 12-13 funds to 13-14 only
- Sequester Response

---

Race to the top-District (RTT-D)

- August 12, 2012: ED announces $400 million Race to the Top competition for school districts
  - Applicants must focus on “personalized learning”
- November 14, 2012: ED receives 371 applications for RTT-D, 900 LEAs submitted their intent to apply
- Awards range from $5 million to $40 million
- December 11, 2012: 16 grantees received funding
ED Opens RTT to Districts, Groups of Districts

- 116 page application
- Minimum 2000 students (less than ½ US Districts)
- BUT can band together

RTT Local Competition Proposal Released

- June 7, 2012 Letter to Secretary Duncan by National Governors Association, Council of Chief State School Officers, National Association of State Boards of Education
  - “States have the primary responsibility for educating their students...”
- June 8, 2012 letter to Secretary Duncan National School Boards Association
  - “SEA’s have formal and extensive education expertise and missions, but they are not responsible for delivering educational services at the local level. Education is provided by local school districts...”

California CORE ESEA waiver

- Consortium of LEAs, California Office to Reform Education, nine districts totaling over 1 million students
- February 28, 2013: CORE submits ESEA waiver application
- March 25, 2013: ED begins peer review process for CORE application
House

- Chairman Kline’s small bills

A Bill That Will Not Become Law But May Influence the Debate

Chairman Kline Flexibility Bill (H.R. 2445) (passed committee July 13, 2011)

“State and Local Funding Flexibility Act”
- Creates essentially unlimited transferability
- Unlikely to become law
- However all reauthorizations add some flexibility.
- NCLB
  - ED Flex
  - Transferability
  - State Flex, Local Flex

The Harkin Bill: Key Changes

- No more AYP or 100% proficiency goal
- No longer label schools passing or “in need of improvement”
- Codifies Race to the Top, Invest in Innovation
Harkin Bill: Conflict and Quick Capitulation...er... Resolution with Teachers

- 1st Draft conditioned Title II funding on implementation of teacher/principal evaluations
- Unions and others came out strongly against this provision
- Original draft modified to make evaluations suggested, but not required

Status of IDEA Reauthorization

- No action but overdue

Status of Carl Perkins CTE Reauthorization
Vocational Education Act of 1963 P.L. 88-210 (Pioneer of State Administered Programs)

- Sole state agency concepts
- State Plan / Local Plan
- Carrot / stick → Affirmative Action

Amendments

- 1968
- 1976
- 1984 Perkins I
- 1990 Perkins II
- 1998 Perkins III
- 2006 Perkins IV

Perkins IV

- Authorized through FY 2012
- Section 422 of GEPA
  - Contingent extensions of programs
Projected Time Table?
• Not likely to be reauthorized in 2013
• If reauthorized in 2014 transition year would be 2015

Common Fears!
• Folded into ESEA ➝ NO!
• Eliminate federal support for secondary CTE ➝ NO!
• Moved to DOL ➝ NO!

Obama Administration Issued “Blueprint”
• Alignment ➝ Allow states to identify in demand occupations in high growth industry sectors
Obama Administration Issued “Blueprint”

- **Collaboration** → Consortia funding to ensure collaboration, with private sector match

Obama Administration Issued “Blueprint”

- **Accountability** → Move from formula funding to competitive funding
  - Common definition
  - Incentives for high performance

Obama Administration Issued “Blueprint”

- **Innovation** → A competitive innovation and transformation fund
NASDCTEc Base funding on POS

Status of WIA Reauthorization

113th Congress WIA Proposal

- Supporting Knowledge and Investing in Lifelong Skills (SKILLS) Act (H.R. 803)
- Sponsor: Representative Virginia Foxx (R-NC)
- Introduced February 25, 2013
- House Education and the Workforce's Subcommittee on Higher Education and Workforce Training hearing February 26, 2013
- Bill markup on March 6, 2013 and passed on a party-line vote
- Passed House on March 15, 2013 (215-202)
- Referred to Senate
Consolidation of Programs

- Proposed elimination of “duplicative” and “ineffective” workforce programs
- 35 programs would be consolidated
- Provides authority to Governors to consolidate additional workforce programs
- Consolidated programs would be part of a single funding stream called the Workforce Investment Fund (WIF)

Workforce Investment Fund (WIF)

- WIF is a unified and flexible funding source for employers, workers, and job seekers
- Larger focus on Workforce Investment Boards (WIBs)
  - 2/3 of local WIBs must be business representatives
  - Eliminates the requirement that unions be represented on WIBs

Community College Role

- State agency officials may designate CEOs of community colleges to serve on Workforce Investment Boards (WIBs)
- Eligible agencies for administering workforce activities includes community and technical colleges
- State Unified Plan should include consultations with community and technical colleges
WIA Reauthorization Concerns

• CTE integration: The Act prohibits State consolidation of Perkins programs
• No reference to skills training for in-school youth program

Disclaimer

This presentation is intended solely to provide general information and does not constitute legal advice. Attendance at the presentation or later review of these printed materials does not create an attorney-client relationship with Brustein & Manasevit, PLLC. You should not take any action based upon any information in this presentation without first consulting legal counsel familiar with your particular circumstances.