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Advocacy Institute 2017 Homework

For Your Capitol Hill Meetings - Tuesday, January 31

NSBA looks forward to your participation at the 2017 Advocacy Institute, January 29-31, 2017. To help you prepare for Hill meetings with your members of Congress and their staff on Tuesday, January 31, please complete the following “homework” assignment that covers issues applicable to your school district.

In addition to this “homework,” background materials are available for NSBA’s legislative priorities regarding implementation of the *Every Student Succeeds Act (ESSA)*, the *Child Nutrition Reauthorization (CNR) Act*, *Carl D. Perkins Career and Technical Education Act (CTE)* reauthorization, and federal investments in education.

As you complete the homework questions below that are applicable to your school district, your responses will help inform your talking points on legislative and local priorities and provide the supporting information and/or related documentation to explain the impact of these priorities on your school district.

Please forward your homework to NSBA either in advance of Advocacy Institute via email to mmckee@nsba.org or when you register on site; and, be prepared to bring copies for your Hill meetings.

I. The Every Student Succeeds Act (ESSA) Implementation

Background

After more than one year since the historic passage of the Every Student Succeeds Act (ESSA) - Public Law No: 114-95 – in December 2015, many of our school districts and state education agencies are actively engaged in implementation efforts and are helping inform the congressional oversight of such. As of December 9, 2016, the U.S. Department of Education (ED) has promulgated regulations for assessments and accountability, and has published its [proposed rule regarding changes to Supplement, not Supplant](#) (SNS) under ESSA. Please refer to the ESSA issue brief (that is included with this document) which provides a summary of implementation efforts.

Local Governance and ESSA: NSBA’s Delegate Assembly informed Title VIII, Part F § 8541, the local governance provision included in the Every Student Succeeds Act (ESSA). Specifically, Section 8541 restores local governance and community ownership in public education, reaffirms local autonomy in matters involving school administration and budget development, and requires consultation with stakeholders, including local school board members, prior to the issuance of non-regulatory guidance.

As the new Administration moves forward with ESSA implementation, NSBA urges Congress to continue using its oversight authority to ensure the promise of restoring state and local governance and flexibility in the administration of federal programs. In the spirit of the law, NSBA asks the Administration to advance regulatory actions and policies that underscore the importance of strong local governance for our nation's 90,000 school board members who work to provide all students with a high quality public education.

Proposed Regulation for Supplement, Not Supplant (SNS): Of critical concern is the need to raise the level of awareness about the many challenges of implementing the Department's proposed supplement, not supplant (SNS) regulation. SNS governs how states and school districts use federal Title I funds. ESSA prohibits schools from substituting state and local education funds with federal funds. As such, federal Title I funds must be used in addition to state and local education funding; a district cannot reduce state and local funds simply because a school is receiving federal funding. Under ESSA, a district must ensure that each Title I school receives all of the State and local funds it would otherwise receive if it were not receiving Title I funds. Additionally, local school districts are authorized to determine *how to* demonstrate compliance with the law. More importantly, ESSA states that, "Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school." (ESSA, §1501, § 1605 (amending 20 U.S.C. § 7372).

Moreover, the Department's proposed SNS regulation deviates from the legal requirements outlined in ESSA by significantly expanding the "funds based" statutory test provided in ESSA in a way that undermines local decision-making and discounts the unique nature of individual schools and the needs of students. The proposed regulation outlines three specific methodologies districts *must* choose from to demonstrate compliance; and, each seemingly imposes comparability requirements that would not necessarily be indicative of school district efforts to close achievement gaps and ensure parity in resources between schools in underserved communities and those in more affluent communities.

ASK: NSBA urges Congress and the new Administration to immediately overturn any final SNS regulation so that it does not go into effect.

NSBA has registered these concerns with the proposed SNS rule:

- The proposed rule limits the authority Congress explicitly granted to school districts because it prescribes specific methodologies districts *must* use to demonstrate compliance.
- The proposed SNS rule represents federal overreach that Congress specifically prohibited because the methodologies included in the rule ignore the statutory threshold for compliance that was established in ESSA. Furthermore, the proposed methodologies are vague and unclear.
- The only proposed methodology that examines whether a Title I school is receiving all of the state and local funds to which it is entitled violates ESSA because it mandates equalized per-pupil spending.
- The proposed regulation focuses on limited, specific funding allocations and discounts alternative funding sources, special programs, and additional services that cannot be quantified through a districtwide formula.

In response, Congressional leaders have vigorously discussed the possibility of utilizing the Congressional Review Act to intercept the SNS proposal. The Congressional Review Act enables Congress to review any new/proposed regulations issued by government agencies and also overrule a

regulation. Under the Act, Congress is given 60 legislative days to disapprove and inhibit further proceedings.

For a regulation to be invalidated, Congress must pass a resolution of disapproval. Such a resolution either must be signed by the President, or must be passed over the President's veto by two-thirds of both Houses of Congress.

For more information, please reference the [public comments](#) NSBA submitted in response to the SNS proposed regulation. The Department of Education's [Transitioning to the Every Student Succeeds Act](#) may also be helpful. Further information is available online at <http://www.nsba.org/advocacy/federal-legislative-priorities/every-student-succeeds-act-essa>.

Homework Questions

Supplement, Not Supplant Regulations. Please be prepared to explain how the SNS proposed rule would affect your school district's budget, management of human capital (teachers, administrators and other staff), and governance authority of the board.

- Specifically, note how the proposed regulations would affect your district's ability to demonstrate compliance with the proposed regulation and which methodology your district would utilize to demonstrate compliance with the rule.
- Also, please note any current programs underway for Title I schools that exceed the scope of the proposed SNS regulations (e.g. where significantly more resources have already been dedicated to help close achievement gaps).

Local Governance. During your Capitol Hill meetings, please note any efforts underway in your state for meaningful consultation with local school board members for ESSA implementation, such as any special committees, task forces, regional consortia or other outreach efforts between state education agencies and school districts and/or your state association.

- Your insight about state and local implementation efforts will help your members of Congress and their staff in understanding your district's needs and priorities as you work to construct new education plans and establish benchmarks for measuring their progress.

II. Child Nutrition Act Reauthorization (CNR)

Background

The last reauthorization of the Child Nutrition Act – the Healthy, Hunger-Free Kids Act, Public Law 111-296, occurred December 13, 2010. It reauthorized six major nutrition programs—including school breakfast and lunch—and expired on September 30, 2015. However, school meal programs continue to operate at the status quo as long as Congress continues to appropriate funds for the program.

Since 2010, the U.S. Department of Agriculture promulgated numerous policies to implement PL 111-296. Four provisions of the bill already in effect include: 1) national standards for school meals, 2) paid meal pricing requirements, 3) competitive foods standards, and 4) professional standards for education and training for all school food service personnel.

Bills to reauthorize the CNR were considered in both the House and Senate in 2016. Both bills take steps to: 1) increase flexibility for whole grain content and sodium reduction targets; 2) increase stakeholder engagement (including school boards); and 3) reduce fraud, waste and abuse. For these reasons, NSBA supported both bills and continues support for such priorities in the next reauthorization effort. Previous legislation included a provision to increase the poverty threshold for school districts to participate in Community Eligibility for school meals and to provide universal meal service, as well as a provision for a pilot program allowing three states to operate school meal programs free of federal regulation, which has sparked concern among some advocates.

ASK: NSBA urges Congress and the new Administration to enact a bipartisan child nutrition programs reauthorization that grants flexibility and relief for school districts to successfully administer school meal programs by: 1) increasing reimbursement levels and other federal funds to cover the cost of compliance; and/or 2) authorizing local school districts to make implementation feasible within available federal resources.

Homework Questions:

- Has your school district experienced any of the following since the Healthy, Hunger-Free Kids Act went into effect in 2010?
 - a. Increased costs to the School Food Authority (SFA)
 - b. Decreased participation by students
 - c. Increased plate waste
- If yes to any of the above, how has your district responded to ensure compliance with the law?
 - a. Draw down of School Food Authority (SFA) fund balance
 - b. Redirection of other non-federal funds to the SFA from other budget areas to help cover operational costs
 - c. Delay or cancellation of investments in equipment, staff or other expenditures
 - d. Increase the price of paid meals
 - e. Other
- If yes to any of the above, how does this impact instruction and other academic/student engagement programs in your district?
- What steps could the federal government take to help school districts successfully provide healthy appetizing meals without negative impact to the SFA or to other school district services and responsibilities?
 - a. Increase federal reimbursement for school meals
 - b. Include the school board perspective when the U.S. Department of Agriculture establishes national policies for school meals, taking into consideration the impact on the entire school district, not just the SFA
 - c. Evaluate and respond to the particular needs of rural school districts
 - d. Provide more technical assistance from the U.S. Department of Agriculture and state agencies
 - e. Provide school districts with more flexibility. What kind of flexibility would be most helpful?

III. Perkins Career and Technical Education (CTE) Reauthorization

Background

We expect Congress to resume efforts to reauthorize the Carl D. Perkins Career and Technical Education (CTE) Act in 2017, with the bipartisan *Strengthening Career and Technical Education for the 21st Century Act* as a foundational bill. This legislation was passed by the House last September, and is expected to be the premise for reauthorization in the 115th Congress. This legislation would help school districts and states expand the capacity of programs; integrate stronger academic components; facilitate greater career pathways and credentialing; and, strengthen partnerships among school districts, higher education and businesses. Last reauthorized in 2006, this law provides states and districts with more than \$1 billion annually in federal funding for programs designed to prepare students for a wide variety of careers. Since the law expired in 2012, education advocates and business leaders have highlighted the importance of aligning career and technical education programs with current and future workforce demands to help prepare students for both college and careers.

ASK: NSBA urges Congress' strong support for swift passage of a bipartisan reauthorization of the Perkins Career and Technical Education program that includes provisions for a strong academic component and credentialing programs that will help our nation's school districts continue efforts to advance 21st Century skills and knowledge to meet the needs of both students and employers and provide practical training through apprenticeships and other opportunities.

Homework Questions:

- What areas of support are needed in your district and community to strengthen CTE programs and the transition for students into career disciplines (such as greater counseling, stronger partnerships with business and industry, additional funding, and acclimation of students to career disciplines during their matriculation at earlier grade levels)?
- CTE reauthorization efforts also involve proposals to support the expansion of public/private collaborations with secondary and post-secondary programs, including alignment with state or locally determined in-demand industries and occupations. Are there successful partnerships in your community among your school district, community colleges and other institutions of higher education and local businesses/industry? If so, please describe this collaboration and the benefits available to students.
- If your state/district has incorporated flexibility for career and technical education programs to serve all students, including students with disabilities, please describe this effort and the results achieved. Your insight will be useful to help inform the reauthorization efforts.

IV. Federal Investments in Education

The budget and appropriations process for Fiscal Year 2017 is halfway complete, pending a subsequent appropriations measure that must be enacted after the expiration of the current Continuing Resolution on April 28, 2017. Looking to the FY2018 budget, there are two major issues: 1) concerns about abating another round of across-the-board budget cuts (sequestration) governed by the

Budget Control Act of 2011, and 2) the need to emphasize the importance of maximizing federal investments in Title I, special education (IDEA), and related education programs.

ASK: NSBA urges Congress' passage of a final Fiscal Year 2017 appropriations bill that maximizes the investments in special education, Title I, and related education programs that our students need for a strong future. Additionally, NSBA urges Congress' bipartisan efforts to avert further across-the-board budget cuts to education in future fiscal years that impact the success of our students, school districts and communities.

Homework Questions:

- For the past two fiscal years, the federal investment in special education under the Individuals with Disabilities Education Act (IDEA) state grant program was approximately 16 percent of the federal share originally promised in 1975. This equated to an estimated \$1,777 per student for 2016, based on the national average per pupil expenditure of \$11,118 for 2016 according to the U.S. Department of Education.
 - Inform your members of Congress about the shortfalls in federal funding for IDEA and note the percentage of your school district's budget that is devoted to special education. Note the average cost of an IEP (individualized education plan) among students educated under IDEA in your district, and the shortfall between this cost and federal IDEA investments Urge Congress to address this shortfall and make increased investments in IDEA a priority for FY2017, which will help alleviate fiscal pressures in other areas of district budgets, especially with the ongoing implementation efforts for ESSA.
- What are some of the ways your school district utilizes Title I funds to successfully close achievement gaps and drive greater academic success? For example, how is Title I used to help raise overall proficiency levels?
 - Has specialized instructional support through Title I improved student achievement in core subjects such as reading and math? Also, note areas in which Title I funds have helped the academic performance of students through programs such as response to intervention or preventive health screenings.
- ESSA calls for a national study on Title I funding regarding equitable distribution among states regarding poverty levels and communities with the greatest need. Provide examples and/or data to support the Title I investment in your school district, such as geographic isolation or challenges, poverty levels or per capita income, lack of industry/community engagement to support students and schools. Such data and information can help inform NSBA and your members of Congress as the study is developed. In addition, this information will help strengthen overall support within Congress and the Administration for sustained investments in Title I grants.

V. Support for Our Public Schools/Educational Choice

Many of our nation's public school districts provide numerous options for educational choice that promote success in student achievement and school performance, thereby preparing our students for

college and careers. NSBA believes that public funds should be used within public schools to advance curricula and choice, including charter schools authorized by local school boards. Conversely, NSBA believes that public funds should not be used directly or indirectly through tax credits, vouchers, or a choice system to fund education at any elementary and/or secondary private, parochial, or home school.

According to findings from NSBA's Center for Public Education report on "[School Choice: What the Research Says](#)," choice in itself may not produce better outcomes. The report analyzes choice within the public school system (magnet and charter schools, inter- and intra-district transfers, and traditional neighborhood schools) and outside public schools (private schools, vouchers and tax credits, homeschooling). While some schools of choice do an exemplary job, the results are not universally better than those produced by traditional public schools. Moreover, NSBA urges policymakers and educators to focus on learning from successful local public schools about policies and practices that can help improve all schools.

ASK: NSBA urges Congress' support for the range of choices that are offered by our nation's public school districts, which educate more than 50 million students.

- NSBA urges a balanced dialogue in Congress on evidence-based choice options to help inform our nation's efforts to assure every child is prepared for college, careers and citizenship.
- NSBA urges a "level playing field" in education policies considered by Congress so that all public schools may benefit from the flexibilities offered to public charter schools and so that performance can be adequately and appropriately compared.

Homework Questions:

- Please be prepared to note successful programs within your school districts that are exemplary of choice, such as local magnet schools, lab schools, charter schools authorized by local school boards, and public specialty schools (such as military academies and those offering specialized curricula for science, technology, engineering, arts, and mathematics), as well as International Baccalaureate programs.
 - Sharing this information with specific highlights about successful outcomes in student achievement and partnerships may help galvanize support in Congress and reinforce efforts to stop any diversion of funds for voucher programs and/or related federal tax credit programs. Such proposals were apparent during the development of ESSA and have resurfaced with the transition to a new Administration.
- If your school district does not have charters, magnet schools or related schools for educational choice, please describe successful programs within your traditional public schools that provide a specialized focus on dedicated academic tracks and innovation, such as special STEM programs, public-private partnerships for apprenticeships, advanced curricula and advanced placement courses that meet the individual and unique needs of students.

If you have any questions, please contact Mary McKee, field operations program associate for the Office of Federal Advocacy and Public Policy, at mmckee@nsba.org. We look forward to seeing you at the 2017 Advocacy Institute. www.nsba.org/advocacyinstitute

THE EVERY STUDENT SUCCEEDS ACT

Since the enactment of the Every Student Succeeds Act (ESSA) on December 10, 2015, the U.S. Department of Education has focused on implementation, which includes a broad range of both formal regulatory actions and non-regulatory guidance. As of December 20, 2016, the U.S. Department of Education (ED) has issued final regulations for assessments and accountability, both of which are set to become fully effective in January 2017. Additionally, the Department has published a [proposed rule regarding changes to supplement not supplant](#) (SNS) under ESSA.

ESSA Provisions (SNS) Compliance

SNS governs how states and school districts use federal Title I funds. ESSA prohibits schools from substituting state and local education funds with federal funds. As such, federal Title I funds must be used in addition to state and local education funding; a district cannot reduce state and local funds simply because a school is receiving federal funding. ESSA includes clear provisions that inform how States and local school districts will be required to demonstrate compliance with SNS. The law itself includes a clear legal directive that both states and districts “shall use federal funds under this part to supplement” state and local funds. This essentially means that federal Title I funds must be additive; they must supplement state and local funds.

To demonstrate compliance with this standard, a school district must show that a Title I school receives all of the state and local funds it would otherwise receive *if it received no federal Title I funding*.

ESSA permits local school districts to determine the methodology, or the way in which compliance is demonstrated. To that point, the law states that “[n]othing in this section shall be construed to authorize or permit the Secretary to prescribe the specific methodology a local educational agency uses to allocate State and local funds to each school receiving assistance under this Part. (ESSA, sec. §1000(4), § 1118(b)(4) (amending 20 U.S.C. § 6321).

Most importantly, ESSA states that, “Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.” (ESSA, §1501, § 1605 (amending 20 U.S.C. § 7372).

The Department’s Proposed SNS Regulation

The Department’s proposed SNS regulation deviates from the legal requirements outlined in ESSA. The proposed regulation does not focus on the totality of the state and local funds a Title I school receives, ignoring the statutory test outlined in ESSA. Rather, the Department’s proposed regulation significantly expands the “funds based” statutory test provided in ESSA in a way that undermines local decision-making and discounts the unique nature of individual schools and the needs of students.

The proposed regulations outline three specific methodologies a district *must* choose to demonstrate compliance; and, each seemingly imposes comparability requirements that would not necessarily be indicative of school district efforts to close achievement gaps and ensure parity in resources between schools in underserved communities and those in more affluent communities.

Specifically, the proposal would require each school district to demonstrate that “almost all” state and local funds are distributed in one of the following ways:

- **Option #1:** A district may distribute state and local funds to schools according to a consistent districtwide per-pupil formula “based on the characteristics of students in each school, such that”–
 - Students in certain subgroups generate additional funding for their school; and
 - Students living in poverty, English Learners (EL), students with disabilities, other groups of students the district determines “are associated with educational disadvantage”
 - Each Title 1 school receives for its use all of the funds entitled under the formula

Concerns with Option #1

- The option does not take into account *all* sources of state and local funds a Title I school may receive.
- The formula does not quantify or consider special programs or services students in Title I schools may receive.
- The test emphasizes the importance of allocations in a way that disregards the benefits of special programs and additional services.

- **Option #2:** A district may distribute State and local funds to schools based on “a consistent districtwide personnel and non-personnel resource formula” such that each Title 1 school receives State and local funds *equivalent to the sum of:*
 - The average districtwide salary for each category of school personnel, multiplied by the number of school personnel in each category assigned by the districtwide formula (teachers, principals, librarians, school counselors); and
 - The average districtwide per-pupil expenditure for non-personnel resources, multiplied by the number of students in school.

Concerns with Option #2

- The rule does not clarify the categories of employees that *must* be included.
- The option does not address how long-term employees are to be weighted.
- The rule does not address how to weigh, in the formula, staff assigned to multiple school sites, or who serve both Title I and non-Title I schools.
- This is likely not an option for school districts with collective bargaining agreements.

- Option #3: “Special Rule”: Notwithstanding the other tests, a district may distribute state and local funds using any methodology that results in the LEA spending an amount of state and local funds per pupil in each Title 1 school “that is equal to or greater than the average amount of state and local funds spent per-pupil in non-Title 1 schools.”
 - This test uses existing, mandatory per-pupil reporting requirements in ESSA as the basis for demonstrating compliance.
 - District may demonstrate compliance if it can show, to the SEA, that a site receives additional funding to serve high populations of students with disabilities, English Learners, or students from low income families ~ “and that these populations disproportionately effect the amount of state and local funds allocated, on average, to non-Title 1 schools in the district or in a particular grade span within the district”—and that absent such school(s), the district would be in compliance.

Concerns with the “Special Rule”

- This option constitutes the most egregious violation of ESSA, which clearly states that nothing in the law shall be interpreted to require mandated equalized per-pupil spending.
- This option takes an existing data reporting requirement in Title I—that school districts should be able to use to meet SNS requirements—and modifies what the data must show. (e.g., equalized per-pupil spending).
- The rule provides no clarification on the factors a district would be required to include in the calculation of per-pupil spending, nor does it clearly identify the entity responsible for identifying such factors.

In addition to these three methodologies, the proposed rule allows for a potential fourth option that is created by the state educational agency, or the Department of Education in each state. This option is not mandatory; states do not have to create a state-specific methodology. If you are in a state that chooses to create an additional methodology, your school district is *not required* to use that methodology. The state-created option is simply an additional, fourth option for such school districts, respectively.

Additional Concerns with the Proposed Rule

- The law authorizes local school districts to determine the methodology for demonstrating compliance, not the U.S. Department of Education. In fact, the Secretary is prohibited from prescribing methodologies, yet the proposed rule prescribes three. (And authorizes the state to prescribe an additional option.)
 - The establishment of specific methodologies and federal “tests” will undermine ongoing efforts by local school board members to increase opportunities for students most in need and prevent the innovative creation of programs that further ensure equity.

- NSBA opposes the prescription of methodologies school districts must utilize to demonstrate SNS compliance. However, if the Department proceeds with the proposed regulatory framework notwithstanding the objections and prescribes specific methodologies, the methodologies in the rule must be amended to clearly articulate expectations for compliance.
- The proposed regulation ignores the statutory test for compliance. The law establishes a “funds based” test narrowly tailored to examine the distribution of state and local funds at the individual school site level. The tests do not examine or allow a school district the option of demonstrating, based on the totality of state and local funds, that a Title I school is receiving all of the state and local funds to which it is entitled.
- The only test that focuses on total allocation inappropriately mandates equalized per-pupil spending. As such, the Department’s proposed regulation undermines a reasonable, existing option, by requiring that the data result in equalized per pupil spending.
 - The proposed regulation does not accurately align with ESSA’s provisions on SNS.
- The proposed regulations include vague and unclear terms: How does a district distribute “almost all” state and local funds in an acceptable way? (Applies to all options, except the Special Rule)
- The proposed regulation narrowly applies specific funding allocations and discounts alternative funding sources, special programs, and additional services that cannot be quantified through a districtwide formula.

NSBA Priority

NSBA urges Congress and the new Administration to immediately overturn any final SNS regulation, so that it does not go into effect.

NSBA has registered these concerns with the proposed SNS rule:

- The proposed rule limits the authority Congress explicitly granted to school districts because it prescribes specific methodologies districts *must* use to demonstrate compliance.
- The proposed SNS rule represents federal overreach that Congress specifically prohibited because the methodologies included in the rule ignore the statutory threshold for compliance. Furthermore, the proposed methodologies are vague and unclear.
- The only proposed methodology that examines whether a Title I school is receiving all of the state and local funds to which it is entitled violates ESSA because it mandates equalized per-pupil spending.
- The proposed regulation focuses on limited, specific funding allocations and discounts alternative funding sources, special programs, and additional services that cannot be quantified through a districtwide formula.

Congressional Oversight

In response to the proposed regulation, Congressional leaders have vigorously discussed the possibility of utilizing the Congressional Review Act to intercept the SNS proposal. The Congressional Review Act enables Congress to review any new/proposed regulation issued by federal agencies to disapprove of the regulation. Under the Act, Congress is given 60 legislative days to disapprove and inhibit further

promulgation. For a regulation to be invalidated, Congress must pass a resolution of disapproval. Such a resolution either must be signed by the President, or must be passed over the President's veto by two-thirds of both Houses of Congress.

Additional Resources for Your Hill Visit

- NSBA's [public comment](#) on supplement not supplant
- ED's resources on proposed SNS regulation
 - [Power Point Presentation](#)
 - [Fact Sheet](#)
- Proposed [SNS Draft Regulation](#)
- Final Accountability, State Plan, and Data [regulations](#)
 - NSBA's [Public Comment](#) on the Accountability Regulations
- Final [Assessment](#) and [Demonstration Assessment Authority](#) Regulations
 - NSBA's [Public Comment](#) on Assessment Regulations
- NSBA's ESSA web page: www.nsba.org/advocacy/federal-legislative-priorities/every-student-succeeds-act-essa#sthash.irwI8H83.dpuf
- NSBA's ESSA primer, *A New Federalism: The Every Student Succeeds Act Overview and Guide*, provides a detailed summary of the law and recommended guidance. A complimentary copy of the primer will be available to each Advocacy Institute registrant.

For additional information, please contact the Office of Federal Advocacy and Public Policy at the National School Boards Association, at 703-838-6722.

December 2016

CHILD NUTRITION REAUTHORIZATION (CNR)

School districts and each of our nation's schools are on the front lines of serving lunch and breakfast to 30 million children daily. Some districts have struggled to meet new standards and other requirements since 2010, when the *Healthy, Hunger-Free Kids Act* (Public Law 111-296) was enacted. This law expanded federal regulation far beyond federal school meal programs to school district operations throughout the campus and school day. PL 111 - 296 expired on September 30, 2015; however, school children will continue to receive school meals as long as federal funds are available.

The U.S. Department of Agriculture promulgated numerous policies to implement PL 111-296. Four provisions of the bill already in effect include: 1) national standards for school meals, 2) paid meal pricing requirements, 3) competitive foods standards, and 4) professional standards for education and training for all school food service personnel.

Bills to reauthorize the CNR were considered in both the House and Senate last year. Both bills take steps to 1) increase flexibility for whole grain content and sodium reduction targets, 2) increase stakeholder engagement (including school boards) and 3) reduce fraud, waste and abuse. For these reasons, NSBA supported both bills and continues support for such priorities in the next reauthorization effort, which also may include a provision to increase the poverty threshold for school districts to participate in Community Eligibility for school meals and to provide universal meal service, as well as a provision for a pilot program allowing a limited number of states to operate school meal programs free of federal regulation, which has sparked concern among some advocates.

NSBA Priority: NSBA urges Congress and the new Administration to enact a bipartisan child nutrition programs reauthorization that grants flexibility and relief for school districts to successfully administer school meal programs by 1) increasing reimbursement levels and other federal funds to cover the cost of compliance and/or 2) authorizing local school districts to make implementation feasible within available federal resources.

During the last Congress, NSBA led efforts to reauthorize the Child Nutrition Act through congressional testimony before the House Education and the Workforce Committee, a national pulse poll, and support for legislation such as the Healthy School Meals Flexibility Act (S.1146/H.R. 2508) and the Reducing Federal Mandates on School Lunch Act (H.R. 1504).

Based on school nutrition legislation considered by the Senate Agriculture Committee and the House Education and the Workforce Committee during the last Congress, the following outline describes key areas for reauthorization.

Flexibility: 1) provide relief for whole grain content and sodium reduction targets, 2) reduce or eliminate the paid meal price mandate that resulted in unnecessary price increases for some students, 3) provide more flexibility for a la carte foods, and 4) restore the five-year administrative review cycle.

Local school board engagement: Increase stakeholder engagement – including school boards - in policy and implementation by the U.S. Department of Agriculture. For example, both bills considered in the House and Senate during the last Congress proposed the establishment of a School Nutrition Advisory Committee (SNAC) to advise the Secretary; and, the Committee would include a school board representative. An additional provision for triennial review of national standards, and a requirement to consult with school boards as part of the process was considered by the Education and the Workforce Committee. Further, provisions are needed to support state and local governance similar to those found in the Every Student Succeeds Act prohibiting the Secretary from establishing regulations or requirements not explicitly authorized by statute.

While NSBA supported the House and Senate legislation last year, there were some differences and provisions of concern, most notably changes to 1) verification requirements, 2) community eligibility and 3) a proposed pilot program.

Verification: Additional program integrity requirements – such as verification – had bipartisan support in Congress to increase the percentage of applications that school food authorities would verify for eligibility, from the current 3% to as much as 10% based on school performance and other factors. However, there were also a number of options to minimize the increase in verifications (called “drop downs”) to reduce the burden on schools and families. School districts may therefore be required to verify the same or potentially fewer applications than they do currently.

Community Eligibility Provision (CEP): CEP allows schools and local educational agencies with high poverty rates (40% or more) to provide free breakfast and lunch to all students. CEP eliminates collecting household applications to determine eligibility for school meals, relying instead on information from other means-tested programs such as the Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF).

A provision considered by the House Education and the Workforce Committee that generated questions would increase the poverty threshold for CEP from 40% to 60%. This provision would have acknowledged mitigating factors for the change, including a two-year transition period for schools and districts that do not meet the 60% threshold. In addition, this provision would have directed savings from the CEP change to a much-needed reimbursement increase for the School Breakfast program.

NSBA therefore calls for careful and compassionate consideration of the impact of CEP provisions in the school nutrition reauthorization.

Pilot Program: The Education and the Workforce Committee also considered a provision to establish a pilot program for up to three states and to grant them flexibility for administration of child nutrition programs. The pilot would have included the School Breakfast Program, the National School Lunch Program, the Special Milk Program, and Team Nutrition. States would have to apply for the pilot to be included. Selected States would combine administrative, Team nutrition and reimbursement funds and

have broad discretion to deliver the programs. Concern that such flexibility would result in lower standards and overall quality of meals for students was raised by many in the advocacy community.

NSBA POSITION

NSBA expressed qualified support for both major CNR reauthorization bills in the last Congress, consistent with Resolution No. 8 approved by the Delegate Assembly on Childhood Nutrition: “NSBA urges Congress and the U.S. Department of Agriculture to grant flexibility and relief for school districts to successfully administer school meal programs by 1) increasing reimbursement levels and other federal funds to cover the cost of compliance and/or 2) authorizing local school districts to make implementation feasible within available federal resources. In addition, NSBA urges the U.S. Department of Agriculture and other federal and state agencies responsible for food safety to improve and coordinate inspection, notification, and other protocols to ensure the nutritional value and safety of foods served in school lunch, breakfast, and snack programs.”

TALKING POINTS:

- School districts are critical partners in the effort to assure a healthy and positive learning environment for children to achieve their full potential. The Child Nutrition Act reauthorization is an opportunity to affirm local leadership.
- Congress should incorporate flexibility in whole grain content and sodium reduction targets in the reauthorization to ameliorate financial and operational barriers to compliance.
- Congress and the U.S. Department of Agriculture should provide meaningful and ongoing opportunities for local school boards to inform implementation of a new law.
- Implementation of the child nutrition act by the executive branch should not result in re-directing state and local funds from instruction to the school food authority or impose unfunded costs on school districts.

For additional information, please contact Kim Richey, Managing Director, federal advocacy at the National School Boards Association, (703)838-6766, or by email, krichey@nsba.org.

December 2016

CARL D. PERKINS CAREER & TECHNICAL EDUCATION ACT

Leaders in the 115th Congress are focused on efforts to advance reauthorization of the Carl D. Perkins Career and Technical Education (CTE) Act, exploring options to expand the capacity of programs in school districts throughout the country. Last reauthorized in 2006, this law provides states with more than \$1 billion annually in federal funding for programs designed to prepare students in technical careers. Since the law expired in 2012, education advocates and business leaders have highlighted the importance of aligning career and technical education programs with current and future workforce demands to help prepare students for both college and careers.

NSBA Priority

NSBA urges Congress to provide the necessary support to school districts to ensure that students have access to high-quality career and technical education programs with a strong academic component and credentialing programs. Modernizing CTE will help our nation's school districts continue efforts to advance curricula that provide 21st Century skills and knowledge to meet the needs of both students and employers and provide practical training through apprenticeships and other opportunities.

Status

The House passed the bipartisan [Strengthening Career and Technical Education for the 21st Century Act](#) in September 2016. This legislation is expected to be the premise for reauthorization efforts in 2017. The bill would modernize Career and Technical Education to equip our students with the academic and workforce skills they need to compete for high-skilled, in-demand jobs. The bill would align CTE with provisions for college- and career-readiness in the Every Student Succeeds Act (ESSA); encourage greater public-private partnerships among school districts, employers and institutions of higher education; increase opportunities for apprenticeships and credentialing; retain current formula grant funding; and, strengthen support for career guidance and academic counseling, as well as professional development for educators.

The Senate Health, Education, Labor and Pensions Committee (HELP) postponed a mark-up of its respective bill on September 21, 2016, due to concerns with specific provisions, including measures that would have reportedly restricted the authority of the Secretary of the U.S. Department of Education.

The following principles are guiding the reauthorization efforts in Congress:

- Provide greater flexibility for state and local Career and Technical Education programs to serve all students who desire to gain access to CTE coursework, including students with disabilities;

- Increase access to, and support of, career counseling for all CTE students;
- Maintain CTE as a formula program;
- Align with ESSA [the Every Student Succeeds Act] and the Workforce Innovation and Opportunity Act (where applicable) to improve the efficiency and effectiveness of the education and workforce development programs;
- Support the expansion of public/private collaborations with secondary and postsecondary programs, including alignment with state or locally determined in-demand industries and occupations;
- Support efforts to integrate into and strengthen career pathways at the state and local levels;
- Address unfunded programs (such as programs to increase participation in STEM [Science, Technology, Engineering and Mathematics] related programs of study); and,
- Improve evaluation and research to support innovation and best practices.

As Congress moves forward to modernize CTE, NSBA advocates for priorities to align skills with the 21st Century economy, facilitate partnerships with industry and other stakeholders, strengthen accountability, and promote innovation.

Research

NSBA’s Center for Public Education has published research about CTE and the opportunities provided to students in a series titled “[The Path Least Taken: Preparing Non-College Goers for Success](#).” Findings show that advanced courses with an occupational focus make a difference in student outcomes.

In the second report of the series, the Center found that what students do in high school can be as important for non-college goers as it is for college goers: At age 26, college goers, on average, are more likely than non-college goers to have a good job and engage in society. But a more rigorous high school preparation that includes high-level math and vocational courses in an occupational concentration improves those chances considerably for non-college goers. Add professional certification to the mix and non-college goers are more likely to be employed and earn good wages than the average college-goer; and, they are as likely to vote.

This series also examined credentials that matter most for non-college goers, and found that students who have achieved the following are more prepared for success in careers:

- Completed Algebra 2 as highest math course and Advanced Biology as highest science;
- Earned a cumulative GPA between 2.51 and 3.0;
- Completed an occupational concentration in high school (three or more vocational courses in a specific labor market area); and,
- Earned a professional certification or license.

This research series is [available online](#) at www.centerforpubliceducation.org.

December 2016

FEDERAL FUNDING FOR EDUCATION

Federal education investments provide support needed for our students and school districts to advance achievement, college and career readiness, and school performance. From Title I grants for disadvantaged students that help raise proficiency levels in reading, math and other subjects to the *Individuals with Disabilities Education Act* (IDEA) state grant program, federal investments provide more than \$35 billion each year for K-12 programs.

On December 9, 2016, Congress passed a partial-year appropriations bill (called a Continuing Resolution or a CR) for Fiscal Year 2017 that will be effective through April 28, 2017. The CR sustains funding for education and other federal programs at levels comparable to FY2016. Without the passage of the CR, funding for the Impact Aid program would have been interrupted for more than 1,000 school districts. The Impact Aid program supports school districts educating populations of federally-connected students, such as those whose parents/guardians are enlisted in the armed forces, as well as students who reside on federal properties such as trust lands.

NSBA PRIORITY

Increasing the federal share of funding for special education is paramount, and should be addressed before considering future funding for newly created programs that may not have proven results for program effectiveness. Specifically, funding for competitive grant programs should be weighed against the need to address Congress' promise to fund the federal share of IDEA which has superseded other local budget priorities for the majority of school districts and communities. IDEA must be fully funded—as well as requirements from the *Elementary and Secondary Education Act* (ESEA /*the Every Student Succeeds Act*). Local school districts need capacity-building support for professional development, curriculum development, course materials and instructional changes. NSBA also opposes general budget reductions by formula, such as the across-the-board cuts imposed in Fiscal Year 2013 by sequestration, which circumvent Congress' responsibility to set funding priorities among government functions. NSBA's focus for the remainder of FY2017 and FY2018 is to sustain investments in foundational programs, such as Title I and IDEA, which benefit millions of our students.

TALKING POINTS

- FY2017-18 Appropriations: Include provisions in a final Fiscal Year 2017 appropriations bill, and in the FY2018 budget and appropriations process, that maximize investments in special education, Title I, early education, and other K-12 programs that our students need for a strong future.

Example: "As you negotiate a final appropriations bill for the remainder of Fiscal Year 2017, as well as the budget and appropriations for FY2018, I urge you to support measures that will maximize investments for special education and for Title I grants for disadvantaged students. My school district has diverted funds from

other education priorities to alleviate the shortfall in federal funds for special education for numerous years. This shifting of funds reduces resources for other students."

Also, state the number of students for which your district provides special education services and the total cost. Then, state what the federal government provides, which does not equate to the 40 percent promised when IDEA was first enacted in 1975.

- Long-Term Budget Priorities: Support budget proposals to replace the annual budgetary caps and sequestration (across-the-board budget cuts) that are imposed by the *Budget Control Act of 2011*. This law caused more than a \$2.5 billion reduction to education programs in FY2013. Although another round of sequestration was averted in Fiscal Years 2016-17 because of the passage of the Bipartisan Budget Act of 2015, a permanent solution is needed to prevent further reductions.

Example: "As the House and Senate negotiate a solution for a final FY2017 funding bill and for the FY2018 budget, your influence is critical to legislating a proactive and permanent plan to stop the across-the-board budget cuts from the sequester. Sustained investments in reforms and innovative programs that advance student achievement and college and career readiness are key for our district."

BACKGROUND

As the cornerstone of the Elementary and Secondary Education Act (ESEA), currently reauthorized as the *Every Student Succeeds Act (ESSA)*, the overall purpose of Title I Part A grants is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and achieve, at a minimum, proficiency on state academic achievement standards and assessments. Title I funding is allocated primarily by formula grants to states and, in turn, to school districts based on the number of children from low-income families and other groups of disadvantaged children residing in these jurisdictions. Children participating in Title I receive primarily reading, language arts, and mathematics instruction through school-wide approaches or targeted assistance strategies. Title I funding is approximately \$14.9 billion in grants to support student achievement efforts at roughly 90 percent of the 14,000 school districts across the nation.

Under the *Individuals with Disabilities Education Act (IDEA)*, which provides the major source of federal funding to help school districts fund educational services to students with disabilities, the federal share of funding that Congress promised is 40 percent of the average per pupil cost for every student served under the IDEA. However, the 40 percent promise has not been fulfilled; and, the federal share of special education funding has declined in recent years. The federal share of funding for services provided to approximately 6.5 million students through IDEA is roughly 16 percent (\$11.9 billion has been appropriated for FY2017). IDEA helps fund early intervening services for students, individualized education plans (IEPs), speech-language pathology, psychological services, transition services, and related activities.