BROWN CENTER on Education Policy at BROOKINGS

TO: President-elect Trump

FROM: Nora E. Gordon (Georgetown University)
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RE: Federal school finance policy

THE SITUATION

Given the constitutional context of K-12 education in the U.S., the core federal role since 1965 has been, in one form or another, to lay out resources. The largest federal spending programs—for example, aid for poor students under Title I of the Elementary and Secondary Education Act (ESEA), funding for students with disabilities, and support for basic research and development through the Institute of Education Sciences—have sought to do what economic principles suggest the federal role should: redistribute resources and make investments requiring scale. As a result, they are relatively uncontroversial. Even proposals to eliminate the federal Department of Education are rarely accompanied by calls to eliminate major federal funding streams.

A more contentious question, and a primary focus of the Department of Education under President Obama, is how the federal government can best induce states and districts to "do better" *with their own resources*. At the same time, the growing availability of data on spending levels in specific schools has raised awareness of disparities and political pressure for federal action to reduce them.

Inequalities in per-pupil spending across schools stem from three sources: differences in average spending across states; differences in average spending across districts within the same state; and differences in spending across schools within the same district. Historical data measure spending at the state and school district—but not school—levels. These data show that the share of inequality in district-level current spending per pupil coming from differences *within* states has declined over time as many states have reformed their school funding systems; by 2011, only 22 percent of spending inequality came from differences across districts within the same state, while 78 percent came from differences *between* states. Because most school districts allocate staff positions, rather than dollars, to schools, accurate school-level financial data are hard to come by. However, recent analyses suggest that within-district disparities in spending, often generated by the migration of more experienced and therefore better paid teachers to schools serving more advantaged student bodies, now play a larger role than differences in spending across districts.

Federal policy has traditionally focused on how to distribute *federal* funds through streams such as Title I and the Individuals with Disabilities Education Act (IDEA), as well as on ensuring that states and districts do not reduce their own fiscal effort in response to an influx of federal funds, or reallocate state and local resources away from schools receiving federal aid. Over the past two decades, however, federal policy has engaged more strongly with districts on what they do with their own money, using the carrot of federal funds in an attempt to change behavior. This shift has been most transparent in the case of competitive grant programs like Race to the Top but is also relevant for formula funds like Title I.

The recently enacted Every Student Succeeds Act (ESSA) includes several new provisions with implications for equity that will require important and in some cases immediate executive input. In particular: (1) the law requires the Institute of Education Sciences to produce a study of how Title I's four funding formulas affect the distribution of program funds across different types of districts and school attendance areas; (2) it for the first time requires districts to report per-pupil spending at the school building level; (3) it establishes a pilot program enabling up to 50 districts to incorporate federal funds into weighted student funding systems designed to reduce inequity within districts; and (4) it changes the definition of the longstanding requirement that federal funds "supplement not supplant" state and local spending. The comment period has recently closed on a controversial rule proposed by the Department of Education to govern the implementation of the redefined supplement not supplant requirement. In its present form, that rule would significantly expand federal authority over how school districts distribute state and local resources.

RECOMMENDATIONS

You will be sworn in as president to a federal education policy landscape requiring immediate attention to the following items.

1. **Exercise leadership in making the federal government excel at what only it can do: redistributing education funding *across the states*.**

   Title I has been the cornerstone of the Elementary and Secondary Education Act since its 1965 enactment, sending federal funds to nearly every district in the country. Throughout the program's history, changes to the formula used to determine state and district allocations have been incremental, with new formulas layered on top of old ones. This has led to a mess of calculations nearly impossible for even highly informed policymakers to understand. The end results of these calculations, however, are allocations that are poorly aligned with the program's stated intent of addressing "the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs." The amount of Title I funding per eligible child varies widely across states with similar child poverty rates and, on average, is higher in states with low concentrations of poor children.

The latest ESEA reauthorization process, which concluded in 2015 with the enactment of ESSA, was eight years overdue and rightly centered on addressing problems stemming from No Child Left Behind's unrealistically ambitious benchmarks for improving student achievement and its highly prescriptive mandates for intervention in schools found to be falling short. The bipartisan hashing out of the law's accountability provisions was a meaningful accomplishment, and Congress understandably lacked the appetite to take up politically-charged formula discussions.

Congress did give voice to frustration over its inability to understand the formulas in ESSA, requiring the Institute of Education Sciences to produce a study of how Title I's four funding formulas (for basic, concentration, targeted, and education finance incentive grants) affect the distribution of program funds across different types of districts and school attendance areas. The president should ensure that this report is carefully conducted and receives widespread attention, using it as an opportunity to exercise leadership from the executive branch to overcome legislative stalemate. In particular, the president should make the case for distributing funds based on poverty rates rather than considering either poverty rates or counts, whichever results in more funds for a district, as under the current "number weighting" system. Rural legislators have drawn attention to number weighting and singled it out for study in the IES report, but have thus far been unable to generate support for its elimination. In addition, the president should support an overall simplification of the current formulas, elimination of the small-state minimum and hold-harmless requirements (both of which produce inequities across states), and removal of current per-pupil spending levels as a factor influencing state allocations.

Making these changes will require strong leadership from the executive branch. When left to its own devices, Congress's formula discussions inevitably devolve into comparisons of current and proposed funding levels for particular states and congressional districts. The Title I formulas are so complex that staff members cannot generate allocations under revised formulas, so members request "winners and losers" analyses from the Congressional Research Service. These analyses are critical in determining the extent of political support for reform, and necessarily take as their starting points current allocations, however arbitrary and unfair.

The more one wants to increase the concentration of Title I funds within states and districts serving many disadvantaged students, the greater is the political challenge: many districts will lose some funds, while fewer districts will gain a lot of funds. Many legislators who wish to support equity on a national level would be forced to favor reduced allocations to their own constituents.

The political problem resembles the dynamics around the closure of military bases; a similar solution could work here as well. In particular, a presidentially-appointed committee of experts could recommend a comprehensive set of formula changes, and Congress could be required to vote these changes up or down as a unified package, without allowing adjustments to the proposal.

Though ESSA may feel hot off the press, it is now nearly a year into its atypically short four-year reauthorization timeline. To allow for such reforms in 2019, substantive discussions need to start now.

2. Design a sensible and legal strategy to improve equity *within school districts*.

While states and school districts can influence the allocation of funds across schools within the same district, so can the federal government. As school-level finance data become more readily available, they reveal major inequities in per-pupil spending across schools within many districts. At the same time, public demand for within-district equity—and a federal role in achieving it—has grown. While ESSA takes several steps in this direction, immediate executive action is needed as districts begin the work of implementing the law.

On September 3, 2016, the Department of Education proposed a rule governing within-district equity under ESSA's revised "supplement not supplant" Title I requirement. The rule generated 3,653 comments in the Federal Register, and energetic dissent from a broad range of stakeholders, including state and local education agencies and teacher unions. The Congressional Research Service questioned the legality of an earlier draft of the rule, and OMB designated the rule "economically significant," implying that it should be held to a rigorous cost-benefit analysis standard. The comment period on the proposed rule has just closed.

The proposed rule is riddled with political, legal, and, most critically, policy minefields. The administration should start from scratch in implementing ESSA's provisions on within-district equity. Here's what needs to happen:

- *Help districts comply with ESSA's new school-level finance reporting requirement.*

  For the first time, ESSA requires states to report on school-level revenue, by source, per pupil. This should be a watershed moment for transparency. However, many districts lack the infrastructure for this kind of reporting. The Department of Education must provide clear guidance to enforce this critical new requirement. Rather than asking districts to report data many currently cannot—as the Civil Rights Data Collection has now done for several years—the Department should investigate district-level capacity to come up with a realistic implementation timeline. Given the attention these data are sure to receive, we should wait until they can be measured and reported consistently, rather than rushing the timeline. The guidance should also clarify (as the proposed rule does) that districts can report combined state plus local revenue per pupil, and federal revenue per pupil, rather than forcing distinct reporting by state, local, and federal revenue categories.

It should ensure that care is taken to avoid misleading comparisons across schools serving different grade levels and students with varying needs. Finally, the guidance should explain how districts are to allocate district-level expenditures such as transportation, pensions, and administration to the school level—or whether such costs could be excluded from these calculations. Only with accurate and consistent data will it be possible to gauge the true scope of the problem and the merits of potential solutions.

- *Help districts comply with ESSA's new supplement not supplant requirement.*

  Also for the first time, ESSA requires districts to report how they allocate state and local resources to their schools, and to show that this method does not result in Title I schools receiving fewer state and local resources than they would were they not participating in Title I. The proposed rule requires districts to do this reporting in a way that is accessible to the public; any new rule or guidance should do so as well. As written, however, the proposed rule would pose serious policy challenges for resource-constrained districts and work against local flexibility to customize school-level programming. It also creates considerable legal risk: the Congressional Research Service has warned that the approach taken in the proposed rule could face legal challenges based on the Department exceeding its authority. Rather than continuing to delay ESSA implementation through near-certain litigation, the administration should rescind the rule and replace it with one consistent with congressional intent. Districts have never before had to report on school-level spending or, more importantly, *how* they distribute their funds. We should first allow stakeholders to respond to this transparency and monitor that response to assess whether further federal intervention is warranted, rather than rushing to apply a one-size-fits-all federal rule.

- *Make the most of ESSA's weighted student funding pilot.*

  ESSA created a pilot program permitting districts that use weighted student funding formulas to allocate their state and local funds to schools to include federal funds in those formulas. The Department of Education should actively solicit district applications for this program and synthesize their experiences to help other districts. Weighted student funding is a notoriously challenging policy to implement; if 50 districts actually attempted to adopt it, we could learn quite a bit about its viability as a tool for improving equity.

3. **Limit the use of conditions on formula funds as a means to influence state and local policy to situations in which the policy goals are attainable.**

The example of the weighted student funding pilot illustrates a broader point: federal policy can choose to promote policies by adding conditions to formula funds (like ESSA's annual testing and school-level revenue reporting requirements) or by using them as criteria to award competitive resources, whether they be funds (as in Race to the Top) or flexibility (as in the weighted student funding pilot). The primary purpose of formula funding programs such as Title I is to redistribute resources according to the formula, making the decision to withhold such funds undesirable from a policy perspective and politically fraught. Conditions attached to the receipt of such funds should therefore be ones that districts and states can readily meet, even if they may not want to do so. More challenging goals without proven solutions are better left to competitive grants programs structured to fund innovative solutions devised by state and local educators and accompanied by evaluation requirements designed to allow the nation to learn from their experience. As you consider the full range of your education policy priorities, keep in mind the potential for well-structured competitive funding programs to advance the evidence base and the ability of individual states and districts to make progress even absent federal formula funds.

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