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Impacts of Federal Education Reauthorizations on Maryland

Federal education reauthorization bills have languished in the U.S. Congress for years, but the past year has seen major progress with the Child Care and Development block grant reauthorized in 2014. Passage of an Elementary and Secondary Education Act (ESEA) reauthorization bill during this Congress is possible, since each house has passed a bill, but until that happens, the State Board of Education must continue to submit ESEA waiver requests to the Legislative Policy Committee for review and to the U.S. Department of Education for approval. A Higher Education Act reauthorization bill is unlikely before the 2016 presidential election. The implications for Maryland from the final and proposed reauthorizations are widespread and, in some cases, have a significant fiscal impact.

Reauthorization of the Child Care and Development Block Grant

The Child Care and Development Block Grant (CCDBG) Act of 2014 reauthorizes the block grant for the first time since 1996 and represents a reenvisioning of the Child Care and Development Fund (CCDF) program. When initially implemented in 1990, the CCDF's priorities and goals were to support low-wage, working families with access to child care. The 2014 CCDBG reauthorization made changes that include the goals of the original block grant by defining health and safety requirements for child care providers, outlining family friendly eligibility policies, and providing parents and the general public with transparent information about the child care services available to them.

In Maryland, the Maryland State Department of Education (MSDE) is the lead agency for the administration of the CCDF through its Child Care Subsidy Program, providing financial assistance with child care costs to eligible working families through the Child Care Subsidy Center. Families can also receive help locating a licensed child care provider. The majority of requirements set by the CCDBG are already being met in Maryland. However, there are a number of new or strengthened requirements under the CCDBG that will require modification of regulations, policy, and/or funding levels.

Most significantly, the CCDBG establishes a 12-month eligibility redetermination period for CCDF families, regardless of changes in income or temporary changes in participation in work, training, or education activities. Current Maryland policy is to issue child care vouchers for up to 12 months based on the work activity of the parent. This generally translates into issuing vouchers for 30 days, 6 months, or 12 months. Most long-term vouchers are issued to those clients who have part- or full-time employment but with low wages that meet eligibility guidelines. This is done to adjust the length of the voucher with the assigned activity of the client, and to allow subsidy support to end in case the client is not complying with the assigned activities. Therefore, the new

CCDBG requirement of issuing only 12-month vouchers for all clients will have a significant fiscal impact on the program.

The Congressional Budget Office (CBO) estimated that redetermining a family's eligibility for child care subsidies would require additional appropriations of around $175.0 million annually nationwide. However, based on a methodology developed by Towson University's Regional Economic Studies Institute, MSDE predicts that the actual costs of implementing the new requirements in Maryland will exceed CBO's estimate, requiring an additional $24.4 million for fiscal 2017 and $43.3 million in fiscal 2018. As the program is funded at 41% through general funds, this would result in $10.0 million in additional State funding in fiscal 2017 and $18.0 million in fiscal 2018 and thereafter. MSDE will need to continue its work to make modifications to regulations and policy to align State policy to the reauthorized CCDBG and will need to make provisions for funding the 12-month vouchers for all families.

Reauthorization of the Elementary and Secondary Education Act

The Elementary and Secondary Education Act (ESEA), which was most recently authorized in 2001 as the No Child Left Behind Act, focuses on accountability, improving standards, and eliminating achievement gaps. In July 2015, the U.S. Senate and the U.S. House of Representatives each passed legislation (S. 1177, Every Child Achieves Act and H.R. 5, Student Success Act) that would reauthorize and significantly amend the ESEA. In their current forms, both reauthorizations would reduce the role of the federal government in public education and grant states more flexibility in setting education policy. In addition, both bills would allow states to request ESEA waivers. Accordingly, MSDE and the 24 local school systems would continue to have the flexibility to further improve public schools in the State.

Accountability and Testing Requirements

Both the Senate and the House reauthorizations would repeal the existing accountability system, known as Adequate Yearly Progress. Each state would be required to establish an accountability system that ensures that every student graduates high school college- or career-ready. In addition, each state would establish an accountability system aligned to standards established by the state education agency (SEA). Although both bills would require states to implement "challenging academic standards," they prohibit federal intervention in state selection of standards. Maryland would continue to utilize the Maryland College- and Career-Ready Standards. Both bills require an SEA to develop a state education plan, in consultation with specified individuals, for approval by the U.S. Secretary of Education.

Both bills would continue requiring annual assessments, including math and reading in grades 3 through 8 and once in high school, in addition to science grade-span testing. Both bills would maintain the 95% participation requirement; however, they both would require parental notification of any state and local policies relating to parents opting their children out of testing. Maryland would still be required to report disaggregated data for subgroups of students in order to continue to identify achievement gaps. Under both proposals, Maryland would continue to identify low-performing schools, but would have flexibility to choose appropriate interventions for each school. The bills would continue to provide funds for school improvement.

Teacher and Principal Evaluations

Both reauthorizations would eliminate the U.S. Department of Education's (USDE) flexibility waiver requirement for the establishment of teacher and principal evaluation and support systems. However, a state may choose to implement an evaluation and support system. Accordingly, MSDE could continue to use the existing three academic year timeline from the 2015-2016 through the 2017-2018 school years for the development, refinement, and implementation of the teacher and principal evaluation system, including the student growth component. Both bills would still allow Title II funding to be used for teacher and principal evaluations.

Changes to Titles I and II Funding

Maryland receives approximately $200 million annually under Title I of the ESEA, which provides funds to support economically disadvantaged students. The House bill would not change the formula for state allocations, but the Senate bill would use a new formula that would apply to state allocations over $17.0 billion. Under this provision, Maryland would receive a smaller share (about 20% less) of the allocation over $17.0 billion. However, the federal appropriation for Title I has been around $14.5 billion for the past six years and is unlikely to exceed $17.0 billion in the near future, so the provision would likely not have an impact on Maryland if it remains in the final reauthorization.

Under Title II of the ESEA, Maryland currently receives approximately $33 million each year under a federal formula that allocates Title II funds to support teacher preparation and effectiveness, 35% of which is based on each state's relative share of school-aged population, and 65% on each state's relative share of school-aged children living in poverty. Compared to other states in the nation, Maryland has a relatively lower population of school-aged children living in poverty. The House bill would alter the distribution to 50/50, with the result that only 50% of the funding would be allocated to a state based on the state's relative share of school-aged children living in poverty. Accordingly, Maryland would receive an increase in Title II funding under the House bill. The Senate bill would alter the formula to 20/80, meaning 80% of the funding would be allocated based on a state's relative share of school-aged children living in poverty. The Senate bill would result in a $7 million loss to Maryland phased in over seven years.

Maintenance of Effort

The House reauthorization eliminates federal maintenance of effort (MOE) requirements; however, the Senate reauthorization continues these requirements at 90% of the amount from the previous year. The Senate bill would authorize a one-year grace period for states and local education agencies (LEA) and delete penalties if policies are implemented to make an LEA more efficient. Maryland has not had difficulty meeting the federal MOE requirement in the past, so any changes to MOE are unlikely to impact the State.

Reconciliation of Differences and Elementary and Secondary Education Act Waivers

To date, a conference committee to reconcile the differences between the Senate bill and the House bill has not been appointed. Until the U.S. Congress reaches an agreement on the reauthorization of the ESEA, and a bill is signed into law by the President, MSDE will be required to continue to submit to USDE renewal requests for ESEA flexibility waivers, unless USDE directs otherwise. Chapter 630 of 2014 requires MSDE to submit proposed waiver requests to the Legislative Policy Committee (LPC) for review and comment at least 30 days prior to submitting the waiver application to USDE. The most recent Maryland request for renewal of flexibility through the end of the 2017-2018 school year was approved by USDE, subject to specified conditions. These conditions include requirements that Maryland provide to USDE (1) no later than January 31, 2016, an amended request that includes information relating to the Reward School identification methodology and (2) no later than June 1, 2016, an amended request that includes the statewide approach for the calculation of student growth based on State assessments in teacher and principal evaluation and support systems.

MSDE will prepare ESEA amendments on school accountability based on the year one data from the Partnership for Assessment of College and Career Readiness assesements for discussion by the State Board of Education in December 2015 and review by LPC. The amendments must be submitted to USDE by January 31, 2016, for review and approval, unless the ESEA reauthorization bill is enacted prior to that date. An amended ESEA waiver request addressing teacher and pricipal evaluation and support systems must be discussed by the State Board of Education and submitted to LPC by spring 2016 for subsequent submission to USDE by June 1, 2016, unless the ESEA reauthorization is enacted before then.

Reauthorization of the Higher Education Act

The Higher Education Act (HEA) governs federal programs related to higher education, most notably the federal financial aid programs, including the entire student loan program. First enacted in 1965, the HEA has been reauthorized eight separate times. It was last reauthorized in 2008 after five years of temporary extensions. The current HEA was set to expire at the end of 2013, but it was automatically extended through 2015. Despite hearings in committees in both houses of Congress on topics that may be addressed in a reauthorization bill, it is unlikely that the HEA will be reauthorized prior to the 2016 presidential election.

Since the initial 1965 legislation, each reauthorization has expanded programs intended to improve college access. In the 2013-2014 school year, under programs created by the HEA, the federal government provided $431 million in grant aid to students in Maryland. The largest federal grant program is the Pell Grant program ($400 million), followed by the Supplemental Education Opportunity Grant program ($13 million).

The entire federal student loan program is governed by the HEA. During the 2013-2014 school year, $1.3 billion in federal student loans were made to students in Maryland, of which $11 million were Perkins loans. The Perkins loan program is a subsidized loan program for students with exceptional financial need. Since Congress did not reauthorize the Perkins loan program prior to September 30, 2015, the authority for colleges to make federal Perkins loans to new students ended on that date, and the program is set to expire in 2020, although no final guidance has been given by USDE. There is a proposal to replace it with an unsubsidized loan program in the next HEA reauthorization.

In addition to updating the student loan programs, the reauthorizing legislation will likely address college affordability, the role of accreditation, improving consumer information, and federal regulations. Congressional committees have also held hearings on combating campus sexual assaults, strengthening America's higher education system, and improving college access and completion for low-income and first-generation students.

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