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HEARING BRIEF

HOUSE APPROPRIATIONS LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES SUBCOMMITTEE DEPARTMENT OF EDUCATION BUDGET HEARING

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On Wednesday, May 24, the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies (LHHS) held a hearing on the U.S. Department of Education (ED) Fiscal Year (FY) 2018 budget proposal. Secretary of Education DeVos delivered testimony and answered questions related to the Department of Education proposal, which was released on May 23.

The budget proposal is based on the FY 2017 continuing resolution funding levels, rather than the final FY 2017 levels appropriated by Congress through the *Omnibus Appropriations Act*. This was a source of confusion and warranted ongoing clarifications from both Members and DeVos, particularly when describing the true size of proposed cuts and/or increases.

While the hearing began collegially, it did not take long for the discussion to get heated. Tensions were particularly high during multiple exchanges about the federal role in protecting students from discrimination. On a day when former foster care youth were shadowing three Members of Congress, Representative Barbara Lee (D-CA) said it was a shame that the young woman shadowing her had to witness the lack of support from DeVos. Democrats also became increasingly frustrated as DeVos continuously avoided questions and burned down the clock by referring back, time and time again, to her support for parental choice and for local decision-making. Republicans, while at times critical of cuts to some of their favorite education programs, were overwhelmingly complimentary of DeVos.

MEMBERS PRESENT

Chairman Tom Cole (R-OK); Ranking Member Rosa DeLauro (D-CT); Full Committee Chairman Rodney Frelinghuysen (R-NJ); Full Committee Ranking Member Nita Lowey (D-NY); Representatives Mike Simpson (R-ID); Steve Womack (R-AR); Chuck Fleischmann (R-TN); Andy Harris (R-MD); Martha Roby (R-AL); Jamie Herrera-Beutler (R-WA); John Moolenaar (R-MI); Katherine Clark (D-MA); Mark Pocan (D-WI); Lucile Roybal-Allard (D-CA); and Barbara Lee (D-CA).

WITNESSES

- The Honorable Betsy DeVos, Secretary of Education

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OPENING STATEMENTS

Chairman Cole began the hearing by welcoming DeVos and reminding her that she has one of the most important jobs in Washington—ensuring the education of America’s young people. He applauded the ED budget for investments that “give more students options,” and specifically praised the 50 percent increase in charter school funding. He added that he supports programs that level the playing field for low-income, Indian and first-generation college students and students with disabilities. Cole noted that it is unfortunate that the FY 2017 final budget figures were not available during the development of the FY 2018 budget, and hence, funding that appears to be level is actually a cut; some purported increases are actually not increases, etc. Finally, the Chairman said he looked forward to learning more about how cuts to Supplemental Educational Opportunity Grants (SEOG) and Work Study will help low-income college students and added that he differs with DeVos about cuts to the TRIO and GEAR UP programs.

Ranking Member DeLauro welcomed the Secretary and thanked her for coming before the Committee, but launched right into sharp criticism of the budget proposal. She called the budget alarming, stating that it transfers taxpayer dollars out of local community schools. “Education is the great equalizer,” she said, and added the government must do all it can to ensure all students get high quality education and reduce the achievement gap. DeLauro emphasized the very students who need the most help would suffer the most through the proposal. An increase in public charter school funding, she said, syphons funding from public schools. DeLauro ran through a list of programs that are on the chopping block, including the 21st Century Learning Centers, which “help keep two million kids safe after school;” literacy, which is the “mark of a civilized society;” the elimination of SEOG, “which 1.5 million students rely on;” and the elimination of the public service loan forgiveness program, which she said helps police, teachers and other public servants.

Appropriations Committee Chairman Rodney Frelinghuysen announced his intention that the full Appropriations Committee do a full review of every line of every Department’s budget proposal and ensure they receive justifications of all changes in programs before they move forward. He reminded DeVos that her job is to ensure young people receive a quality education. He noted that when he visits schools in his district, he is told that a well-rounded education, including arts, physical education and other programs is the best kind of education, and that higher education aid such as Pell Grants and Work Study is critical.

Ranking Member Lowey said “I believe that your budget proposal would do great harm to students in every facet of education, from kindergarten through graduate school, and for those with student debt, for years beyond.” She said that the budget represents another broken promise from the Trump Administration and does not represent the views of the people from her district. She noted that afterschool programs are one of her favorite ED initiatives because even if you “can’t get behind” educational enrichment activities, these programs can guarantee working parents that their children are safe after the school day ends. “The budget was written by people who have never had to worry about how to pay for their children’s college,” she said, and added that she is most bothered by its use of Pell reserve funds and the addition of private school vouchers.

WITNESS STATEMENT

Secretary DeVos said she looks forward to talking about how to work together to fund education programs while also remembering the overall goal is to best serve the students of the country. She told the story of a Connecticut boy who experienced bullying in a high school she categorized as dangerous.

He barely passed his classes but was passed along, and ended up in a low-skilled, low-wage job until a course in community college changed his path. He is now on the way to becoming an emergency school nurse. She urged the Committee to keep him in mind as they consider her budget proposal, which lays out plans that will allow parents to get children out of schools they feel are not meeting their children's needs, and makes hard decisions on how to spend limited taxpayer dollars. She added that the budget eliminates programs that are well-intended but fail to yield meaningful results. "This budget refocuses the Department on supporting states and school districts, simplifies funding for college and makes higher education more accessible for all," she said. The budget fulfills the President's promise to "devolve power from the federal government and place it in the hands of parents and families," she added. She concluded that the power of parents to select the school that meets each child's needs will improve the education system and make it "the envy of the world."

MEMBER QUESTIONS

Chairman Cole began by asking, in light of the recent unanimous Supreme Court decision that schools must provide a truly meaningful free and appropriate public education to students with disabilities rather than a de minimis education, how it will impact ED and how they will be able to provide support in that area. DeVos replied that it is an issue she is aware of and has followed closely. She added that it is the federal role to support the Individuals with Disabilities Education Act (IDEA), and the budget does "anticipate fully funding IDEA," which raised eyebrows in the audience as the federal government has never fully funded this program. She added that the decision and its implications remain to be seen. She said the original need for the Supreme Court case was that the parents did not feel their son was getting the support he needed, and implied that increased school choice would mitigate a similar situation in the future. Cole noted that the previous administration flat funded IDEA, and the Committee is committed to making sure students with disabilities are well taken care of.

Cole then pivoted to the TRIO program, and said he has seen the positive impact in his district. He noted that it has produced over five million college graduates, which he deemed successful. He asked why ED proposed reductions to TRIO and GEAR UP. DeVos said portions of the TRIO program are effective, but the portion that was cut, McNair Scholarships and the Educational Opportunity Centers (EOC), did not focus on the original intent of the programs. Cole pushed back that McNair is a program that gets students into graduate programs that would not otherwise be able to go, and pushed back that while it is high-cost, that is the nature of a graduate program.

Ranking Member DeLauro opened by focusing on the elimination of funding for Title II Part A-Supporting Effective Instruction State Grants. She stated that this sends the message that either school teachers, principal and other school leaders have hit all the benchmarks and need no more improvement, or that they are doing so poorly that there is no need to support them, and asked DeVos which category was true. DeVos said the Title II Part A program has been spread thin and been too prescriptive in nature and that states have greater latitude in their *Every Student Succeeds Act* (ESSA) plans to use other funding for the kinds of activities that Title II Part A has been intended for, if that is what is right for those states. She said that 20 percent of Title II grants to local school districts have been \$10,000 or less, so the efficacy of these funds is in question. DeLauro argued that her state does not have the financial flexibility to just pull from another pot of funding when one is eliminated. She added that the teaching profession is dynamic, teachers must be supported to stay current, and without support and training, they do not stay in the profession. DeVos agreed that a good teacher is invaluable, and DeLauro added "they need the resources to do it." DeVos stressed that decisions to target resources are best left at the state

and local level, through the flexibility afforded through ESSA. DeLauro insisted that the budget would result in less money going to states, and “you can’t do less with less.”

Full Committee Chairman Frelinghuysen said that he has been particularly supportive of IDEA. He noted that the country has never met its full obligation of funding 40 percent of IDEA costs, and asked where ED is in relation to greater support. DeVos said she shares concern and “heart” for both special education students and their teachers. She said if Congress is to fully fund their portion of IDEA, it would be at roughly \$30 billion. ED is proposing continuing funding at the FY 2017 continuing resolution level. Frelinghuysen reiterated that he believes funding should be increased.

Ranking Member Lowey reminded the Committee that only nine percent of resources for public education come from the federal government, and that they should be working to help states, not put more of a funding burden on them. She asked if a student with disabilities receiving a voucher for a private school would have due process rights under IDEA and if students would be assured accountability and quality at a private school. DeVos replied that states and parents would make the choice and deal with these issues in the way that works best for them. DeVos did not directly answer the questions and so, with limited time, Lowey concluded by voicing her concerns about the budget cuts.

Rep. Herrera-Beutler asked how ED plans to support schools to manage mental health crises—noting the rising rates of youth suicide—in students, including school-based policing and school resource officers. DeVos said she shares this concern and that crisis is best addressed at the most local level possible, so ESSA supports flexibility to invest resources based on local needs and presumes they will prioritize funding accordingly. She added that the Office of Safe and Healthy Students within ED is designed to help, but it is a long-distance relationship. Herrera-Beutler then asked about chronic absenteeism and added there are very important reasons students do not go to school, including home and community environments. “It’s not just students playing hooky,” she said. She asked how ED plans to empower local school districts to address the issue. DeVos said that often absenteeism is the product of the school not being a good fit, so choice is important to addressing the problem, and otherwise it is a state and local issue.

Rep. Roybal-Allard said she was disappointed to see the \$1 billion Furthering Options for Children to Unlock Success (FOCUS), essentially a Title I portability program, which she called alarming given that other parts of Title I would see nearly half a billion dollars in cuts. She added that portability was rejected by Congress several times during the drafting and negotiating of ESSA. She asked, “Should high-poverty schools receive more funding resources than schools that have lower levels of poverty?” DeVos said that the reality is they do get higher levels of funding. Roybal-Allard asked if DeVos accepts the assertion that high-poverty schools face greater challenges than other public schools. DeVos said yes, to which Roybal –Allard then replied that it concerns her greatly to see ED funding cut. She added to Lowey’s point that any new money has to come from somewhere, and with a large cut to the Department, any shift in money is a further cut to other programs. Roybal-Allard then asked how ED would mitigate the “financial implications” that portability would have on local school districts. DeVos replied that the FOCUS voucher pilot is voluntary, and that the conversation should be about what is right for students, not schools and buildings.

Rep. Harris voiced his preference for school choice, since the parents are the taxpayers and should get to determine where their tax dollars go. He cited international scores in math and reading, noting that the

United States does not appear in the top ten percent with many other countries leading the way. Harris then said he hopes DeVos will follow the lead of the Department of Homeland Security and direct universities that get federal dollars to enforce federal immigration laws and outlaw “sanctuary campuses.” Finally, Harris spoke in support of religious freedom exemptions for Title IX.

Rep. Pocan said that Wisconsin actually has seen immense failures in their private school voucher program. Students with disabilities, LGBT students and others were turned away from schools, and rural students did not have alternative options to their local public schools, so there was no “choice” for them. Test scores of voucher students were lower or flat as compared to their peers, and in fact the funding did come at a cost to public education. He added that many families getting private school vouchers were already sending their kids to private schools and were making over \$100,000 per year. He asked if there would be any accountability standards for the voucher program. DeVos referred to ESSA state plans and said there already is accountability. Pocan cut her off repeatedly for not answering the questions he posed, and was scolded by the Chairman.

Rep. Moolenaar thanked DeVos “for stepping up and being a leader for kids.” He said “the message is trusting parents, state and local educators and keeping the focus on kids.” He asked about campus sexual assault, and what role the federal government can take in dealing with the challenge. DeVos shared his concern about the rise of campus sexual assault, and said the Office of Civil Rights (OCR) is committed to investigating complaints that reach their office and to fully funding OCR, which also raised eyebrows in the audience since the budget proposal proposes a cut in funding to the office. She added that rules on implementation of Title IX are being examined currently but she is not at a point to provide any information. Moolenaar pivoted to Career and Technical Education (CTE) and asked how the federal government can do more to encourage it. DeVos said CTE is a top priority of the President and the Administration. The best way to support it, she said, is to target dollars to support community colleges and other institutions of higher learning. She said we have done a disservice to young people by categorizing four-year college as the best thing for everyone, rather than other forms of higher education and credentialing,

Rep. Clark picked up Pocan’s line of questioning and noted that studies, data and evidence show that students who use vouchers for private schools have experienced a significant loss of achievement, and that schools that are open to all and accountable to states and the federal government do better for their students. She offered a private school in Indiana as an example of a school that receives state-funded vouchers but denies admissions to LGBT students, and asked if DeVos would ever intervene in a voucher program funded with federal dollars if there were evidence that it was discriminating against students. DeVos answered, “For states that have programs that allow parents to make choices, they set up the rules.” “So that’s a no,” Clark responded. She rephrased her question and asked, “is there any case when ED would intervene, for example if a private school refused admission to African American students?” DeVos stressed state flexibility and state authority when it comes to decision-making. “I go back to the bottom line,” DeVos said. “We believe that parents are the best-equipped to make decisions for their children’s schooling.” Clark punctuated the exchange by saying “I am shocked that you cannot come up with one example of discrimination worth of you standing up for students.”

Rep. Simpson said that he is a strong supporter of TRIO, and noted that the McNair and EOC programs were slashed because DeVos views them as outside the realm of congressional intent for TRIO. Simpson asked, if we fund those programs, can you agree that they will then be within congressional intent?

DeVos said if that is how you define it, then I guess so. He then asked for an update on a congressional directive to review 77 applications for the Upward Bound program which were rejected for minor formatting issues and the steps ED will take to allow eligible grants to be funded. DeVos noted that because the grant period had already closed, Congress appropriated additional funds for those eligible programs, and they now believe they can use those funds to reconsider the 77 applications. She added that the formatting issue has been unaddressed under four of her predecessors, and that she issued a directive Department-wide that formatting is no longer grounds for rejection of any grant application. Simpson then asked for a justification for cuts to Impact Aid. She said the portion that is slated for elimination does not impact any students. The Congressman seemed skeptical of that response.

Rep. Lee, who was one of many Representatives with a foster youth shadowing her at the hearing, said she was hurt that her shadow had to witness the exchange with Clark in which DeVos was unable to ensure student protections from discrimination. She said that during segregation, it was the federal government that allowed her to go to school, so DeVos' commitment to local decision making, even in the case of discrimination, is "upsetting." Lee then noted a \$1.7 million cut to OCR in the budget, coupled with DeVos' statement that historically black colleges and universities (HBCUs) were the pioneers of choice, when it was their only choice, is "sad, shocking and disappointing." She cited cuts and eliminations including the HBCU master's program and the 21st Century Learning Centers, which low-income and minority students rely on, and asked for a justification. DeVos said she wants to be clear that she is not suggesting that students should not be protected and should be assured of a safe and secure and nurturing learning environment. She added that there is no proposal for eliminating ED's power to investigate discrimination, and finally, that HBCUs are fully funded as compared to previous levels.

Rep. Womack said that Washington is finally embarking on a discussion about how to get the federal budget under control. He noted that the Committee is talking about small discretionary programs when it is really the entitlement programs that are squeezing the budget and that until entitlement programs are reigned in the budget situation will remain a problem. Womack asked about career and technical education, and agreed with DeVos that a college degree is not the only measure of a student's success. He said there are many good job opportunities ripe for students just out of high school, and so a lot of CTE training should be happening long before the decision to go to or forego college. He asked when in a student's educational life it is most appropriate for them to begin planning for careers, and whether CTE is something that should be in high school curricula. DeVos replied that planning for careers needs more discussion, and that much of the federal role is bifurcated between ED and the Labor Department. She agreed careers are not addressed at an early enough age. Cole added that in Oklahoma they have is a great system for career preparation, including CTE and dual enrollment.

Rep. Fleischmann voiced his concern for cuts to Title IV Part A, Student Success and Academic Enrichment grants, particularly because of the role the program can play in supporting computer science education. He noted that there will be a projected 960,000 computer science job openings over the next few years, with only 340,000 graduates to fill them. So, he asked how Congress can work to support computer science education to support the computer science pipeline. DeVos said she shares an interest in science, technology, engineering and math (STEM) subjects noting her husband had started a STEM high school. She said the budget has a \$20 million experimental grant for STEM competition (it is an increase in CTE National Programs that would support a competition to promote the development, enhancement, implementation, or expansion of innovative CTE programs in STEM fields), and added

that the STEM focus should really be at the state level, where it can be customized to meet state and local community needs. Fleischmann noted that he has enjoyed learning how to code alongside students, and looks forward to continuing to work together on computer science education.

Rep. Roby asked if DeVos acknowledges that ESSA expressly forbids ED from coercing states into accepting specific curricula and standards including Common Core, to which she replied “absolutely.” Roby followed up by asking if ED will follow the letter of the law, and DeVos again replied in the affirmative.

Ranking Member DeLauro, who appeared increasingly exasperated as the hearing went on even putting her head down on the dais at one point, closed with some “corrections for the record.” She noted a cut to CTE by 15 percent, despite DeVos’ endorsement of the program, and said “you cannot talk out of both sides of your mouth.” On vouchers, she noted that an evaluation of the only federally funded voucher program found that students performed significantly worse on math and reading; that Title I has been cut from its current level; that the budget proposal would impose real harm on the nation’s students; that there are no due process rights under IDEA with federal vouchers; and that private schools do not need to be accredited or show evidence of student success. She said “I make those corrections because if we are going to have a robust conversation about education, let’s put the facts on the table and go from there.” She finished by calling the budget “cruel, inhuman and heartless” for millions of kids across this country. She said she will fight the budget with every fiber of her body “because it is wrong to do this to our kids.”

Chairman Cole thanked DeVos for her testimony and praised her particularly for her emphasis on school choice. He commiserated with her on the need to make tough choices, and thanked her for engaging with the Committee.

CONCLUSION

Hearing testimony from DeVos on the Administration’s budget is only the beginning of a long process for the Appropriations Committee, which must now draft its own education appropriations bill and ultimately come up with a plan to fund the government before September 30, 2017. Meanwhile, DeVos is expected to defend her budget before the Senate Appropriations Committee on June 6, as the Senate also embarks on the drafting of their own funding legislation.

To view a webcast of the hearing go [here](#).