

Federal Education Policy and the Trump/DeVos Administration: What to Expect

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On February 7, the U.S. Senate confirmed President Trump's choice for secretary of education – Michigan billionaire and school choice activist Betsy DeVos. Though neither Trump nor DeVos have any personal experience with public schools – they neither attended, taught in, nor sent their children to them – both have expressed strong opinions on what needs to be done to improve them.

While the policy roadmap and priorities for the new administration have not been announced, communities can begin now to defend public education at every level – local, state, and federal. This memo offers some insights in to how the admin-

istration might move forward with their agenda, what mechanisms exist for implementation, and what can be done in response.

Secretary DeVos: A history of conservative political donations and activism

Betsy DeVos and her husband Dick DeVos – heir to the Amway fortune – are among the nation's most conservative and active philanthropists. The couple helped design Michigan's charter school law and has given tens of millions of dollars to organizations and politicians that work to expand vouchers and charter schools, particularly in their home state.

DeVos has little experience with federal education policy. During her Senate Committee hearing, she revealed confusion over federal law and education policy, on topics including special education and contrasting measures of student performance that are the subject of extensive debate among education stakeholders.¹ She refused to commit to maintaining funding for public schools and would not agree with the need for equity and accountability for all federally funded schools.

There are other concerns. Betsy and Dick DeVos said² that they want to focus on reforming public education as part of their work to “advance God's kingdom.” DeVos supports public funding for religious schools, and her family's foundation donated to anti-LGBTQ groups³ such as Focus on the Family and the Family Research Council, which her father helped found.

Altogether, Secretary DeVos's record is cause for concern as she takes the helm of the U.S. Department of Education.

What would it take for the Trump administration to carry out its education agenda under Secretary DeVos?

IMPLEMENTING VOUCHER PROGRAMS

Both President Trump and Secretary DeVos have expressed strong support for publicly funded programs that allow taxpayer dollars to be distributed directly to families in the form of vouchers, which they may use to enroll their child in a private (and sometimes religious) school. A different

approach to vouchers, private “scholarship programs,” allows businesses to receive a tax credit for donations to a privately held fund, which then distributes vouchers to eligible families. Supporters argue that these programs are funded through private dollars, but tax credits decrease revenues for public coffers, which reduces available funding for public schools.⁴

Research on voucher programs has revealed mixed results,⁵ and a majority of Americans continue to oppose such programs.⁶ Congressional proposals to create voucher programs funded with federal dollars have so far failed (except for the District of Columbia’s Congressionally-imposed scholarship program).

In September 2016, candidate Donald Trump pledged to commit \$20 billion in federal funding for school choice. He proposed that the federal government put up \$20 billion and ask the states to contribute an additional \$110 billion from their own education budgets. With that money, Trump announced, every K–12 student living in poverty across the country could receive a voucher for \$12,000 to allow students to attend the “school of their choice.”⁷

Trump has not identified how he will seek to implement this market-driven reform agenda. The following are some his options and their potential outcomes.

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There’s no failed policy
more in need of urgent change
than our government-run
education monopoly.
Donald J. Trump, September 2016.⁸

Passing Legislation

Congress has repeatedly defeated proposals to create public voucher programs. It appears – at least for now – that Congress is not likely to allow the direct transfer of public dollars into a federal voucher program other than in the District of Columbia.

Taking an incremental approach, Senator Tim Scott (R-SC) has recently introduced S235, which he has named the “CHOICE Act” (Creating Hope and Opportunity for Individuals and Communities through Education).⁹ The bill would provide federal start-up funds to states to establish voucher programs for students with disabilities, allowing federal IDEA (Individuals with Disabilities Education Act) dollars to “follow the child” to the private school of his/her choice. The CHOICE Act would also create a pilot program to offer vouchers to children in military families and dramatically expand the DC Opportunity Scholarship voucher program to cover children currently in private schools. The full text of the bill is not yet available.

Changing the Tax Code

The other, and in some experts’ eyes most likely, avenue for voucher funding is through the federal tax code. President Trump is expected to announce a major overhaul of the tax code this spring. Under this scenario, a federal tax credit could create a pool of money to be used for vouchers. In states that already have such scholarship funds, a new federal credit could supplement existing funds, creating larger (or more) vouchers for use by individual families to cover private school tuition. In states without existing voucher/scholarship programs, the federal credit would potentially allow them to begin offering vouchers to students without the state establishing its own program.

The pro-privatization Fordham Institute notes¹⁰ that this approach to vouchers circumvents anticipated state opposition, since it does not require approval by state legislatures. The Institute suggests that a federal voucher tax credit would “incentivize” the creation of private schools and cautions against “micro-management” (i.e., regulation) of any tax credit program. But many public education

advocates believe that such a program could kickstart a competitive market in which entrepreneurs open up new private schools expressly for the purpose of receiving the federal dollars and attempting to profit from them. David Brennan, an Akron businessman and Republican activist in Ohio, followed this route after that state's voucher program was enacted.¹¹

EXPANDING CHARTER SCHOOLS

Over 6,600 charter schools are operating in 43 states across the country, and all but 5 states have laws allowing them. While the U.S. Department of Education (ED), through its Office of Innovation and Improvement, has provided over \$3.3 billion in federal grants to support charter school start-ups and expansion,¹² the rapid growth of the national charter industry has already put a strain on state and local capacity to effectively monitor the schools, leading to mixed academic results and concerns about accountability.¹³ As a way of delivering on his promise to expand school choice, the Trump administration could propose a dramatic expansion in funding for the current Charter Schools Program, which was authorized by Congress at \$270 million in FY 2017 and \$300 million in FY 2018.

The president is expected to introduce a rough outline for his FY 2018 budget in March of this year. Details and department-by-department justifications for the proposed budget will likely follow in April. This will provide a clearer understanding of how the president and his education secretary will attempt to fund their expanded school choice agenda.

REDUCING THE FOCUS ON CIVIL RIGHTS AND EQUITY

The federal Elementary and Secondary Education Act (ESEA) was passed in 1965 explicitly to assure additional supports for schools with large numbers of low-income students and to provide a mechanism for monitoring and responding to claims of discrimination and inequity in public schools. While Congress's proposed funding levels for Title I have never been met, the program has consistently supplemented state funding for schools in Black and Brown communities.

Under the Obama Administration, the ED's Office of Civil Rights (OCR) was a more aggressive enforcer of student rights than in previous administrations. Between 2014 and 2016, the ED released at least three letters of "guidance" related to student civil rights. These included guidance on the discriminatory use of school discipline policies,¹⁴ charter school compliance with federal civil rights laws protecting students with disabilities,¹⁵ and ensuring the rights of transgender students.¹⁶

While there is speculation that Secretary DeVos may want to shutter the OCR, she does not have that authority. She could, however, leave it largely unstaffed, redirect its work towards other areas of "civil rights," and/or seek to reduce funding for the office in future budget years. Reducing the capacity of the OCR is particularly troubling at this moment, as we have seen an uptick in incidents of bullying, hate speech, and threats against African American, LGBT, and Muslim students in schools across the country over the last two months.

DISMANTLING ESSA

There is concern that, in order to pay for a privatization agenda, the secretary will attempt to move funds around within the Every Student Succeeds Act (ESSA – the most recent iteration of ESEA). It appears this would be extremely difficult without Congressional approval, because of new prohibitions embedded in the Act itself.

ESSA transferred much of the decision-making on how federal funds are used back to the states. In fact, the recent law explicitly prohibits the secretary of education from interfering with states' use of federal dollars. For example, the secretary is no longer able to use federal competitive grants to incentivize state policy change, as was done by Secretary Duncan in the Obama administration's Race to the Top program. Nor can she mandate specific interventions in low-performing schools, as was done through the ED's School Improvement Grants program.

But the ED is responsible for interpreting the law and issuing regulations to guide states in their implementation. On the day that Secretary DeVos was sworn in, the House of Representatives voted to overturn the regulations crafted by the Obama administration for accountability under ESSA. The accountability provisions govern how states implement and measure school improvement, monitor equity within districts, and more. While the strongest provisions are in the law itself, shifting or removing the regulations is likely to lead to uncertainty and confusion in many states that have drafted or are in the process of drafting their accountability plans.

The Best Defense Is a Strong Offense: What States and Local Groups Can Do

While Donald Trump threatens to undermine or eliminate the federal government's role in ensuring equity and providing justice for public school students, he has also made pronouncements about the importance of local control. Indeed, the majority of educational policies, and the majority of public education funding, come from state and local sources.

With uncertainty ahead about the federal role in overseeing education, local and state organizing groups, unions, youth-led organizations and advocates are developing strategies to protect and defend public schools at all levels. Here are some examples:

- ◆ Identifying new sources of revenue for public education, including closing tax loopholes and ending corporate tax breaks;
- ◆ Ensuring new investments and increased state and local funding in response to anticipated cuts in federal funding for public education;
- ◆ Demanding/calling for the transfer of funding from programs that criminalize students, like having police officers in schools, to be used instead for positive discipline practices and social and emotional supports;
- ◆ Organizing for community schools that offer culturally relevant curricula, strong teaching and learning conditions, positive discipline practices, wrap-around services, and transformative parent and youth engagement;
- ◆ Supporting resolutions or laws enacting moratoria on the expansion of charter schools unless and until they are fully accountable to the public;
- ◆ Seeking laws or policies blocking vouchers and use of public funds for religious schools;
- ◆ Demanding state and local action against the increasing incidence of hate speech and bullying at public schools, and implementation of culturally responsive curriculum and anti-bias training for all staff;
- ◆ Proposing laws that override/contradict the discrimination being legalized by the federal government.

These actions and others will be critical as the fight continues locally and nationally to ensure equity and world-class public education for all students.



Keep education local!

Donald Trump, in a tweet: February 10, 2016.¹⁷

Notes

- ¹ “DeVos takes hot seat in confirmation quest,” *Education Week*, 1/24/2017, <http://bit.ly/2kGTSM5>
- ² “Trump’s education pick says reform can ‘advance God’s kingdom,’” *Politico*, 12/2/2016, <http://politi.co/2kPL9dl>
- ³ “Should LGBT people trust DeVos?” *The Advocate*, 1/18/2017, <http://bit.ly/2IHjP2r>
- ⁴ The Friedman Foundation website hosts an interactive guide to school choice/voucher programs in each state, including information on eligibility and funding. It is a useful resource for determining where your state stands currently on vouchers: <http://bit.ly/2IH3M4G>
- ⁵ “School vouchers and student achievement: reviewing the research,” *Journalists Resource*, last updated 9/14/2016, <http://bit.ly/2kQ2Edp>
- ⁶ “Americans support charters, oppose vouchers, poll finds,” *Education Week*, 8/21/2013, <http://bit.ly/2IHicm>
- ⁷ In many instances, the amount of a voucher does not fully cover the cost of tuition and expenses at private schools. Families must either cover the balance, or find private schools whose tuitions are low enough for the voucher to cover in full.
- ⁸ “Trump pledges to earmark \$20B for school choice,” *The Hill*, 9/8/2016, <http://bit.ly/2kGRVze>
- ⁹ “New bill offers glimpse of how Washington could use federal funding to expand school vouchers,” *Washington Post*, 1/26/2017, <http://wapo.st/2kH0PwN>
- ¹⁰ “A federal scholarship tax credit: Trump’s only fifty-state school choice option,” Thomas B. Fordham Institute, 1/30/2017, <http://bit.ly/2lMCA0y>
- ¹¹ *Education Empire: David Brennan’s White Hat Management, Inc.*, Food and Allied Trade Services Division, AFL-CIO, March 2006, <http://bit.ly/2ktPPSD>
- ¹² For more information, see U.S. Department of Education Office of Innovation and Improvement, Charter Schools Program, <http://bit.ly/2kGRNQs>
- ¹³ “Education Department slammed for its charter school oversight – by its own watchdog office,” *Washington Post*, 10/5/2016, <http://wapo.st/2ldxLAL>
- ¹⁴ “Rethinking School Discipline,” U.S. Department of Education, 1/8/2014, <http://bit.ly/2ldvPrL>
- ¹⁵ “U.S. Department of Education issues guidance on obligations of charter schools to comply with federal civil rights laws,” U.S. Department of Education press release, 5/14/2014, <http://bit.ly/2kGPih8>
- ¹⁶ “U.S. Departments of Justice and Education release joint guidance to help schools ensure the civil rights of transgender students,” U.S. Department of Justice press release, 5/13/2016, <http://bit.ly/2lglbb8>
- ¹⁷ “Keep education local!” @realDonaldTrump, <http://bit.ly/2ldvBB9>