



News from the Hill

Education Tops Domestic Agenda

by Paul J. Seifert, J.D.

In the past we've had "Education" presidents, and now it's time for the "Education" Congress. Up for reauthorization this year are two major education programs: No Child Left Behind (NCLB) and the Higher Education Act.

No Child Left Behind

Congress is preparing to examine the issues in NCLB. There is no shortage of opinions on how to fix the Act, which in 2001 created many new requirements for schools. Key issues include Highly Qualified Teachers, Adequate Yearly Progress, funding, and Positive Behavioral Supports.

► **HIGHLY QUALIFIED TEACHERS.** States were required to ensure that all public school teachers in core academic courses would be "highly qualified" by 2006. Currently no state has met that standard and states are attempting to seek revision of the requirement. Child advocacy groups have argued that both general education and special education teachers should meet the standard.

► **ADEQUATE YEARLY PROGRESS (AYP).** States are also seeking revisions to the standards for determining whether schools are meeting AYP requirements. Again, child advocacy groups, especially those like CHADD representing children with special needs, point out that students with disabilities drop out of school at an alarmingly high and unacceptable rate. NCLB's requirements should increase the weight given to how graduation rates affect the determination of adequate yearly progress to produce substantial and consistent improvement in graduation rates for all children.

► **FUNDING.** Both the states and child advocacy groups agree that one of the issues facing schools and compliance with NCLB requirements is a lack of funding. Congress has not provided the resources necessary for schools to implement many of the new changes.

► **SCHOOLWIDE POSITIVE BEHAVIORAL SUPPORTS (SWPBS).** CHADD is participating in The Coalition Promoting School Success for All Children that supports amendments to NCLB to encourage schools to improve the climate for learning by adopting schoolwide positive behavior supports (SWPBS). SWPBS is not a program, but a



system based on decades of behavioral and biomedical research. SWPBS changes how schools respond to students, improving student behavior by reinforcing desired behaviors and eliminating inadvertent reinforcements for problem behavior. SWPBS initiatives reshape school climates into more conducive learning environments appreciated by students, staff and school personnel, and have been shown to facilitate improved academic outcomes and test scores. (See the Promising Practices column in this issue for more information on SWPBS.)

The reauthorization of NCLB provides an opportunity to integrate such practices to help schools with two significant needs: (1) to improve academic achievement, including the need to meet the requirements of NCLB, and (2) to foster a school climate that promotes learning by reducing discipline problems and addressing students' social and emotional development.

Higher Education Act

This legislation authorizes several programs, such as the popular Pell Grant and student loan programs, to assist students attending colleges, universities, community colleges, and junior col-

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leges. Recent studies have shown, however, that students with disabilities are less likely to complete college. Slightly more than one in ten persons with disabilities has graduated from college.

To address this, CHADD is working with a large coalition of education groups to enact changes in the Higher Education Act. These include:

- ▶ Improving the "Gear Up" program that targets middle- and high school students, especially those with disabilities to help them prepare for college
- ▶ Expanding the "Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education" to reach more high-school graduates with disabilities
- ▶ Creation of a National Technical Assistance

Center to collect and disseminate information on successful and promising practices that help students with disabilities succeed in college

- ▶ Increased incentives to attract more students into special education and related services doctoral programs and the development of incentive packages, including loan forgiveness, for those who become special education faculty at institutions of higher education

IDEA Funding

Representative Chris Van Hollen (D-MD) has introduced legislation that would make funding for IDEA (Individuals with Disabilities Education Act) mandatory. The "Everyone Deserves Unconditional Access to Education Act," H R. 821, will finally allow Congress to fulfill its 32-year-old



promise to provide 40 percent of the National Average per Pupil Expenditure for every child in special education. Currently, Congress provides just slightly over 17 percent of National Average. State and child advocacy groups support the measure as way to finally force the federal government to live up to this commitment.

Supreme Court

Not to be left out of the action, on May 21, 2007, the U.S. Supreme Court decided in favor of parents' rights under IDEA by holding that Jeff and Sandee Winkelman had the right as parents to use the federal courts to enforce special education rights without having to hire a lawyer. The Supreme Court said that the clear statutory scheme behind IDEA intended that parents be free to proceed to federal court on their own

when they feel their child's right to a free appropriate public education is being violated. Justice Kennedy wrote the opinion supporting the Winkelmans' rights and was joined in agreement by Chief Justice Roberts and Justices Stevens, Breyer, Souter, Ginsberg, and Alito.

Parents now need not fear that school districts will impose another layer of legal obstacles in front of them when they go to federal court acting as their own lawyers to appeal cases for their children. Had the school district won, parents and children throughout America would have lost yet another opportunity to challenge a school district's decision that they believe denied their children a free appropriate public education. You may view the opinion at <http://www.law.cornell.edu/supct/html/05-983.ZO.html>. ■