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GETTING EDUCATION BILLS TO THE FINISH LINE

A CANDID CONVERSATION WITH FORMER HOUSE AND SENATE STAFFERS ABOUT WHAT'S NEEDED FOR REAUTHORIZATIONS OF ESEA AND HEA TO SUCCEED

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P R O C E E D I N G S

MR. CHINGOS: Good afternoon and welcome to Brookings. My name is Matt Chingos. I'm a senior fellow in the Brown Center on Education Policy here at Brookings.

We're having this event today because Congress is good at setting deadlines, but terrible at meeting them. Today we're going to talk about the two major education laws that are overdue for reauthorization. As many of you know, No Child Left Behind, which is the current incarnation of the Elementary and Secondary Education Act, was passed in 2001, was due for a rewrite in 2007, and still has not been reauthorized.

It's particularly embarrassing because the original law said that all students would be proficient by 2014. And I assume that a lot of the folks who wrote that law knew we'd never get there, but we'd fix it in 2007. It would be a nice, ambitious goal but that never happened so we got NCLB waivers, and everything that went with those.

This law is the primary source for federal funding for K-12 education, but the big policy debate surrounded -- are largely about testing and accountability. This the strings and the consequences that go with that money.

The Higher Education Act was last reauthorized in 2008 and was due for a rewrite in 2014. So it's not quite overdue as NCLB, but it's still an important piece of legislation because the federal government arguably has a larger footprint in higher education than it does in K-12. HEA includes the Pell Grant Program that provides support to low-income students to attend college, as well as all of the major student loan programs that have, in particular, gotten a lot of attention over the last couple of years.

We could have multiple all-day events on the policy areas covered by each of these important pieces of legislation, but today we're going to focus less on the policy and more on the politics of reauthorization. Why hasn't it happened yet? And

what will it take to make it happen? What about the reauthorization efforts currently underway in the House and Senate? Will this time finally be different? To tackle this set of questions, we are fortunate to be joined by four distinguished panelists with extensive combined experience working on education legislation on the Hill.

Jason Delisle, currently at New America, worked for the Republican staff of the Senate Budget Committee and the office of Congressman Thomas Petri, a long-time advocate of income-based repayment for student loans.

Sarah Flanagan, to my right, from the National Association of Independent Colleges and Universities, worked for two different education-related subcommittees under Senators Claibourne Pell and Christopher Dodd.

Bethany Little, to my left, from the EducationCounsel LLC, is a former chief advisor to Senate HELP Committee Chairman Tom Harkin and also worked for Senator Patty Murray and in the Clinton White House.

And on my far left is Marty West, currently at Harvard, who worked for the Senate HELP Committee as an advisor to Senator Alexander, who was then the ranking member and, as of January, is the chairman.

The four distinguished individuals have experience in both K-12 and higher ed in both houses of Congress and working for both Democrats and Republicans. But note that they're all former Hill staffers. That was a very intentional choice to end up producing a candid conversation among knowledgeable folks who now, hopefully, feel free to speak their minds in this conversation.

So I'm going to invite each of our panelists to spend a few minutes telling us about their backgrounds on the Hill and then we'll have what I expect to be a lively and fascinating discussion before turning to your questions. So let's start with Jason.

MR. DELISLE: Okay, all right. Thanks, Matt. So I started in -- boy, it

was in 2000 I started working for Congressman Tom Petri, who was a very senior member on the Education Committee.

Actually, some of the politics of this is very interesting. When I first came to his office, the first round of chairmanships under the Republican takeover of '95 were up. So this was the first time there were term limits on chairmanships and they were actually up at that point and Congressman Petri was the most senior member on the Education Committee. And so the office was abuzz when I got there about trying to secure his chairmanship and he lost out to John Boehner. And so it was sort of an exciting, interesting time about the politics around who would be chairman of the committee.

But I wasn't actually working on education issues when I started there, so I missed the drama and the excitement around No Child Left Behind, although I sort of got to see what was happening by watching my colleagues in the office. I think one of the interesting things I took away from that was a lot of conference meetings, a lot of meetings, the Conference Committee to the House and the Senate, a lot of that, and I don't know that we see as much of that anymore.

And then I worked on the Budget Committee starting in 2007 for the Republicans, for Senator Judd Gregg, and worked a lot on higher education issues there, as we can probably get into later. When you're dealing with the budget issues in terms of entitlement spending and mandatory spending, you're almost exclusively in the realm of higher education and those programs.

So I ended up focusing a lot on those when I went over to the Budget Committee and didn't work on a Higher Education reauthorization then, but worked on two budget reconciliation bills that affected higher education programs and I can certainly speak to that and add some of that to the conversation.

MR. CHINGOS: Sarah?

MS. FLANAGAN: Thank you. My most relevant experience is when I worked for Senator Pell. I was the higher ed specialist for the Education Subcommittee for Senator Pell and I started in January of '87, which is when the majority flipped the other way from the Republican control to the Democratic control in the Senate, and I worked through '93. So I was the principle staffer for the '92 reauthorization on the Higher Ed Act which was a landmark reauthorization. It set up new structures on accountability that had not been there before. Simplification was the overriding goal, so Lamar Alexander was the Secretary of Education. I think maybe some of his ideas now are deep-seated in his memory from that reauthorization. But it was also a time of budget reconciliation.

So leading up to the '92 reauthorization, starting in '87, there was a great deal of concern about the size of the federal budget and nearly every year there was a reconciliation. I was responsible for that, as well, and deciding how we were going to squeeze money out of the Student Loan Program in order to meet reconciliation targets. So that is my relevant background on this conversation.

MR. CHINGOS: Bethany?

MS. LITTLE: Hi. Bethany Little, and I started on the Hill coming out of the Clinton White House where I was first at the Department of Education and then in the White House Domestic Policy Council. I joined Senator Patty Murray up on Capitol Hill because she was an amazing woman and a leader, specifically, on education.

She was on the Budget Committee in part because of her interest in education, on the Appropriations Committee, including the Education Subcommittee there, and on the Education Authorizing Committee. So I got to work on all of those aspects of education for her. In my time with her, we did write, as part of the committee,

the No Child Left Behind Act. And Jason's observation is a sharp one. It's true that we all sat around a very large table for many, many hours and days and months on end doing that.

I did see my second round that there are far more -- what they call Big Four, you know, the chairmen and ranking them from the House and the Senate working together, rather than that full committee. So interesting process observation up front.

I left Capitol Hill having worked -- we finished No Child Left Behind. We also worked on getting going on IDEA, Head Start, and HEA, getting those underway, but didn't finish them while I was there. I came back to the Hill in 2008 -- early 2009, as the chief education counsel when Senator Kennedy was the chairman of the HELP Committee, and worked for him when we worked on SAFRA, which was a reconciliation bill on higher education, taking the federal Pell Program and moving to an entirely direct loan system for higher ed and putting tens of billions of dollars into Pell Grants. And then worked on the No Child Left Behind Act reauthorization.

That was the first attempt that got a bipartisan vote out of committee and then didn't go any further, which will be part of our conversation later, I'm sure. And so, I worked on that spectrum of issues. As the chief education counsel you are responsible in the HELP Committee for everything from early childhood programs, like Head Start and CAPTA, to K-12, the ESEA, IDEA, Higher Ed, and the Workforce Investment Act. So, the full spectrum.

MR. CHINGOS: Marty?

MR. WEST: So, thanks for the chance to be here. My name's Marty West. Listening, I'm realizing that my experience on the Hill is the shortest represented on the panel, but it's also the most recent, though, so hopefully that is a plus.

I also had the dubious honor of being a staffer on the Hill at a time when

Congress' approval rating bottomed out, long-term history, in the single digits. And so I'm not sure what to make of that entirely.

MR. CHINGOS: It's a good thing you left. (Laughter)

MR. WEST: But I went to work on the Hill on leave from the academy, where I'm a professor, and went to work for Lamar Alexander of Tennessee, who was then the ranking member of the HELP Committee, and went to work, primarily, on education issues, especially K-12, hoping to make some progress on the reauthorization of the Elementary and Secondary Education Act.

Very quickly when I arrived, that process towards trying to negotiate a bipartisan reauthorization proposal between Senator Alexander and then the chair of the HELP Committee, Tom Harkin, broke down and instead the chairman and the ranking member collegially agreed to work independently. And so that was a time when the staffs weren't even making an effort to work in a bipartisan way, but rather just set out to draft what their ideal reauthorization proposal would look like.

That was obviously not a very productive strategy in terms of trying to get a result in that Congress, and as a result, we did not get a result in that Congress. But I do think it was useful in shedding light on where the ideal points of the two parties were at that time. Because we didn't do a lot of work on Elementary and Secondary Education Act, actually pushing it through, I ended up spending a lot of time instead on a series of hearings leading up to the hopeful reauthorization of the Higher Ed Act, as well. So that's where I am.

MR. CHINGOS: Well, thank you all for joining us. I want to start by talking about this issue of which party controls which houses of Congress. You know, when the Republicans won the Senate in the 2014 midterms I think some folks, including those maybe who weren't particularly personally happy with the outcome, saw it as an

opportunity, that maybe we'd see bipartisan movement on some of these pieces of education legislation that had previously been stalled. And bipartisan in the sense that Republicans controlled both houses of Congress, so they could agree on something and maybe, because education's more a bipartisan issue, they could come up with something that President Obama could at least stomach.

So I want to get each of your perspectives on -- Marty, you worked for Senator Alexander when he was in the minority, and now obviously for the last number of months he's been the chairman. So, from what you've observed, is that -- and from your experience there, is that going to be an important difference for seeing progress? And then, you mentioned the turnover in '86, so I imagine there's obviously been a number of these changeovers and lots of history that maybe provides some perspective on this?

MR. WEST: Well, the process is clearly proceeding much more sort of auspiciously with respect to the Elementary and Secondary Education Act this Congress than the last Congress instead of having this fully partisan reauthorization effort that led to a 12-10 split committee vote. Just in April, the HELP Committee unanimously passed -- sent to the floor -- a reauthorization proposal that Senator Alexander and Patty Murray had put together, together.

That means it was approved by Al Franken and Elizabeth Warren on the left and Tim Scott and Rand Paul on the right, so incredibly broad support. So things certainly look to be proceeding much more smoothly.

I'm not convinced, though, that it's as much about having both parties aligned in terms of who's in control in the House and the Senate just because, at the end of the day, in the Senate you need to have 60 votes to move anything of substance forward anyways, so you're going to need to put together a bipartisan bill in the Senate to get a result anyways. I think it's as much about the personalities and the style of the

chairman and the ranking member and their willingness to work together to compromise. And, obviously, that is to some degree a function of the outside events, as well, not just who's in control. I don't know.

MR. CHINGOS: Well, you could compare that to 2007 and 2008, right? So Democrats took over Congress in 2007 and one of the very first things they did was a big higher education bill because the reconciliation bill wasn't a reauthorization, but then the following year they proceeded to do a reauthorization quite -- it took a little while. It took about a year, but it happened and it was something that they clearly made a priority to do after taking the majority. So maybe it's more of an issue of when Democrats take over, they want to do education stuff quickly and know what they want to do and when Republicans take over, they're still just as confused about education policy as they were when they ran for election. (Laughter)

MS. LITTLE: So, a couple of additional points. I do think the fact of takeover actually matters as much as anything else because it's the momentum of somebody coming in with a clear, oh, my god, I finally have the reins and it's my turn to lead and I'm going to lead if it kills me. So you see some momentum and fresh energy when that takeover or turnover happens.

MR. WEST: Yeah.

MS. LITTLE: Interestingly, and people may recall, in 2001, when we actually did last time actually manage to finish the Elementary and Secondary Education Act, we switched parties on the floor of the Senate when that bill was being considered on the floor. So we went onto the floor with the Republicans leading the Senate and we left the floor with the Democrats leading the Senate. And so we went into the process expecting that it would be the Republicans and the Republicans' House and Senate and we went into conference with the House Republicans and Senate Democrats, so it

actually ended up having very little effect who was where.

Where I do think it has impact, the turnover in leadership is one thing, but the other is about what people's expectations on the outside are. When both parties have leaders -- when party has leadership of both chambers, I think the expectations of all the people who want things out of the bill are different than when they think I have this champion who's on my side, you have this champion who's on your side, what will the deals look like? I think those expectations end up shaping a lot of momentum.

MS. FLANAGAN: I also might add that I think it isn't just enough to have bipartisan conversations, there has to be bipartisan trust. And some of the direction that you've seen, some of the recent success in the Senate is because I think there's genuinely a trust between Patty Murray and Lamar Alexander. It really was foreshadowed when they did WEA in the last Congress and the Democrats were in control. And so that set a tone for this.

Now, whether that's enough? One of the challenges that Elementary and Secondary faces versus Higher Ed is that No Child Left Behind reaches much more deeply into the way that schools and education actually operate and is delivered in this country than does the Higher Ed Act. And so you can't get through a rewrite of Elementary and Secondary without talking about things like teacher contracts and curriculum and test scores and the impact of that.

MR. CHINGOS: Bullying, which is --

MS. FLANAGAN: Well, we always have shower ideas. (Laughter) We always have -- that's what we used to call them. A bill is on the floor and so every member is thinking about it and whatever idea is -- whatever's on the front page of the paper, you're going to have a legislative manifestation for it. (Laughter)

So there are all these issues which are very serious social issues, but

are issues that Congress might not think to put in a piece of legislation unless they happen right around a bill, and that's always the chairman's job to manage. But I do think that you need a deep sense of bipartisan trust and sometimes that trust comes through when the Legislative Branch is somehow collectively angry at the Executive Branch, and so they're thinking about the first Article of the Constitution instead of Democratic versus Republican, and it's just a very interesting dynamic.

I know when I worked out there, people would say unless it's an election year, we're Congress and they're the White House. We don't care who's in it, like they're the real enemy. And then it would sort of be first thing is it's your side of the aisle, but then it's your House, too. It's your chamber. Like the House always saw itself as better than the Senate, the Senate always saw itself as better than the House, and then collectively Congress saw itself as better than the Executive Branch.

And those dynamics, which might play out a little differently if it's a presidential year and, never mind, we've put all of that aside. So the relationships at a deep level can affect the process.

MR. CHINGOS: Some of that Legislative versus Executive Branch, was that kind of amped up by the NCLB waivers? Was there a sense in Congress that, wait a minute, we didn't do our job and now kind of the President is legislating by God?

MR. WEST: Well, so when I was thinking about whether to go spend a couple years on the Hill and the prospect that maybe something would get accomplished, that was actually my hope, was that exactly this dynamic Congress, through the Executive, that Congress would be offended that the Obama administration had effectively taken reauthorization into their own hands through the waiver process and the conditions placed on the waivers that they were awarding; that that would sort of put pressure on Congress to work together because anything was better than losing control

over the policy issue. That dynamic while, you know, perhaps evident to some degree, just wasn't enough while I was on the Hill in order to do that.

One of the things -- even though members of Congress would complain about the waivers, they would complain about the fact that decisions were being made in the Executive Branch that were theirs to make --

MR. CHINGOS: Including Democrats?

MR. WEST: What's that?

MR. CHINGOS: Even the Democrats would complain?

MR. WEST: The Democrats would complain, as well, but it wasn't enough to overcome the fact that the two parties at that time just drew very different lessons from the problems that had emerged with No Child Left Behind. And so there was widespread agreement that the status quo was not ideal. They were not happy with how policy was being made, but, nonetheless, they had big disagreements about what to replace the status quo with; whether to become more proscriptive and get it right this time or whether to devolve virtually all decisions about the design of accountability systems to the states. And so at that point, there just wasn't enough of that dynamic to move things forward.

MS. LITTLE: One thing I'd add about the waiver and how it played in is that in 2011, it actually actively mitigated against getting the bill done.

MR. WEST: Yeah.

MS. LITTLE: Because at the moment in 2011, we had the most momentum, the administration acted on waivers. And so now you see a united group of CCSSO and governors and superintendents and others all saying we desperately need reauthorization because we need some stability and they're pushing very hard for give us a bill. At that moment they were distracted by the shiny object of waivers and said, well,

maybe you'll do a bill or not, but, meanwhile, we're going to get a waiver. And so that actually shifted the dynamics pretty significantly.

It doesn't mean it was a mistake. I mean, I don't know that Congress would have made it across the finish line anyhow and, god knows, something needed to be done to let some of the air out of the balloon there. But I do think the impact was pretty significant on the fact that waivers happened at that moment and distracted the momentum and attention from the reauthorization attempt.

Now I think that's shifted and it's not irrelevant that Patty Murray's home state of Washington is one of the only states in the country that doesn't have a waiver. Right? So there's an additional pressure there that is part of the waiver conversation.

MR. CHINGOS: I want to talk a little bit more about that momentum in 2011. You know, Marty mentioned this year, for the first time in a while, a bill was passed to the floor of the Senate, unanimous support. You've seen this movie before.

MS. LITTLE: I think I starred in it.

MR. CHINGOS: And so is this time going to be different? Is there going to be a different ending? Can you talk a little bit more about -- and you mentioned the waivers, but what else was going on? Why did it die then and why maybe will it die this time based on those lessons or is there more cause for optimism?

MS. LITTLE: Sure. Well, I mean, nobody ever lost money betting against Congress to do its job, so there's a good chance this all falls apart. And there' a good chance it falls apart on the right. Right? There is a whole lot of going on in the House right now that makes the dynamics very interesting and how the presidential elections play in. The was an article yesterday in The Hill about Jeb Bush's run and the House NCLB bill and how those things all -- so we can go into that.

But I think one thing that's really clearly the same here, and this is a big

moment of choice for Lamar Alexander, once of the things that killed the bill in 2011 was a lack of significant attention to subgroup accountability in ways that worked for the civil rights community. And this bill that is up now also does not have that problem fixed. And the civil rights groups have been and become more vocal about that problem since this markup moving towards the floor.

It's true that they had the unanimous support of the committee in markup, but voting for a bill that says this is a much better starting point than what we think came out of the majority on its own -- so this is now actually a bipartisan starting point -- and we want the process to move forward because every single person is tired of No Child Left Behind is different than we actually like this bill and would pass it. And in the committee markup you heard many members on the Democratic side say there is significant accountability problems that we need to see addressed on the floor.

Lamar Alexander was unwilling to compromise on some of the subgroup accountability conversation in 2011. If he doesn't make some of those compromises this time around, I think they'll have a very hard time getting a bill done.

MR. CHINGOS: Other folks want to weigh in?

MR. WEST: So I agree, you don't want to get too excited, but I think there are some reasons for potential optimism. And I think the optimism mainly stems from the fact that there's a greater recognition that there are real problems with the status quo. So I totally agree about the way in which the waivers diffused some of the pressure on Congress to reauthorize in 2011 and, in part, because it put the states in this relationship with the Department of Education where they are actually sort of, you know, seeking the blessings of the department to address some of the problems with the law and they didn't feel like they were in a position to be criticizing the way in which the policy was unfolding.

I think you've seen that dynamic change. You have got more state chiefs who are going to members of Congress and saying, look, we need the certainty that a real reauthorization would provide, that this is too problematic in the current environment.

I think I agree that the bill that just cleared the HELP Committee is much more similar to the Republican ideal point bill than the Democratic ideal point bill, but I actually think that that's an extension of a longer term process. So if you look at what was considered in the abortive attempt in 2007 and then you look at 2011, now you look at what's being considered now, there's been a clear shift in a more conservative direction, if "conservative" means devolving responsibility for the design of accountability systems back to states.

So I think some of the members -- or some of the groups that Bethany is highlighting may come to the realization that, look, the environment's not going to get better. We may want to take what we can get now. At least we still have annual testing, at least we have strong transparency requirements, so maybe that would be enough to sort of solve that problem.

And then on the right I think the key is just for the very conservative Tea Party members to realize that if they fail to act, then all that does is perpetuate the status quo that they find, you know, so problematic and further empower the Obama administration, of which they're not the biggest fans. And so I think all of the sort of pressures are there, that you can tell a story that gets to a result. And then the big question, I guess, would be whether the President would be willing to sign it.

MR. CHINGOS: So let's talk a little bit about the President's role beyond enforcing legislation, beyond eventually signing it, but in the process as legislation makes its way through Congress. How can the President be most effective as a cheerleader or

a bully, you know, whichever you want to call it? I mentioned here folks' experiences working on bills where the President played an effective role at helping shepherd legislation and then instances in which the President kind of mucked it up. Who wants to bite at this one?

MS. FLANAGAN: So I worked there at a time when the Congress didn't really care what the President's role was, although -- and so they took a pride of ownership and there was quite a discipline to the process. The reauthorizations up until after No Child Left Behind passed, okay, were always done in six-year cycles, and Congress never attempted to do any more than one of the three big education bills. Back then it was elementary and secondary, higher ed, and vocational education, and each Congress rotated. And the Education Committees focused their entire attention on that piece of legislation. It was a very disciplined process, when you had to go to the floor and when you had to go to conference. And so it was extraordinarily structured and Congress owned it.

So the role of the President was -- it didn't matter as much, although back then, also, you expected the White House or the administration to send up a full reauthorization plan, including legislative language that was drafted and then was considered by the committee as sort of a privileged outside group, is the best way I would describe it. So they submitted their proposals and I can remember one reauthorization where we waited. We said, look, you got to get it in in the next four weeks if you want any voice on this, and we'll allow you a little bit later than everybody else, but not much later because there was this disciplined structured process. And now my sense is that nowadays it depends more on the politics in Congress as it relates to the White House, so.

MR. DELISLE: I mean, I think that at least for the, I don't know, past six

years or so, with the Obama administration is they've actually taken some of the wind out of the sails of doing a higher ed reauthorization because of all the policy that they've proposed and has been taken up by Congress and enacted. That isn't necessarily reauthorization, but it's higher education, so you had things like eliminating the year-round Pell Grant. That was something they proposed and was passed. Now, actually, that's a big proposal in adding it back in as actually maybe an incentive to reauthorize, you know, and some of the other -- the budget proposals relating to Pell Grants, for example, the main in-school interest subsidy on graduate staffer loans.

And so, you know, as each of these sort of pieces of legislation moves as part of some other process or some other crisis, that I think it starts to, you know, again, remove the incentive to do something about the other parts of the law that aren't big money pieces, although maybe that makes it easier than to pick them up and do it if the big fight over the big money pieces is over. But it seems to me that that has sort of taken the wind out of the sails of doing a reauthorization.

And the same with the President's Executive Actions now, with the college, I'm going to make sure I get the word right, it is ratings, not rankings. Right?

MS. FLANAGAN: Yes. But that could work the other way.

MR. DELISLE: That could work the other way, right.

MS. FLANAGAN: That is going to be so inflammatory in the higher ed community that Congress could use overriding that as a thing to carry the rest of the bill. It's interesting, although once -- if they truly letter-grade every college, once it's out, the damage is done. So it's a very interesting kind of thing to watch. Of all the things that the President has proposed, nothing has captured the imagination of the grassroots in higher ed quite like the idea the federal government's going to tell you whether you're an A or a B or a C. And that's exactly how it's looked like from the players out there.

MR. DELISLE: Well, I couldn't help but notice when you were talking about K-12, you were talking about how K-12 policy reaches so much deeper into how those schools work, and I was thinking, well, how do you feel about the ratings? (Laughter) Now we know.

MS. FLANAGAN: Yes. No one likes the idea of the ratings.

MR. WEST: Well, I do think there's something about the strategy that you just said, about almost where a lot of the Obama administration has been trying to do both in higher ed and K-12 is to change some of the facts on the ground. So, you know, one of the things, I didn't have anything to compare it to during my short two years on the Hill, but I was told by longer-term staff members that the administration was sort of glaring in its absence from the legislation process. And clearly, in K-12, they had largely given up on Congress. And many people would say, sure, that's understandable given the challenges of working with a Republican Congress that liked to shoot anything proposed by the Obama administration down. But really they tried to shift policy through the waiver process. And, you know, if you look at what states are doing, the implementation of teacher evaluation systems and the like, they're getting states to change what they're doing.

But the question it raises is what the legacy of having done that will be. You don't have anything codified into statute as a federal requirement. Anything that's done through Executive Action can be undone through Executive Action by the next administration. And so I think the gamble they're taking is that they think they can sort of push really hard, get some changes made in the states that will really get locked in, get their own momentum there, and that's how they'll change things longer term because, clearly, they're not working, you know, through Congress.

MS. LITTLE: Just to add another bit of perspective on it, as well. I do

think it depends on the trajectory of the politics in the political cycle. What Sarah described literally sounds like legislative making on Mars to me. It is so different from the way it has happened in the years I've been there because that whole sense of order and discipline and we do these things in these times as Congress, I think I never experienced that at all. It's been gone for a while.

And what's real about that is I think it's partly reflective of the increasing partisanship of education. I think that was a time when education was a much more bipartisan issue and people authentically could say, okay, now it's our turn to go get serious about this together and what are the prevailing ideas that we share and let's work on those. And sort of the 80/20, let's leave said the 20 and really get the 80 done because that's our job. And that is not the way it's often seen now. It really is more of a political football.

And I think in the moment when the President came in, just a touchstone to history, he put forward a pretty significant ESEA proposal and they were very engaged. And they came up and spent a lot of time with the committee sort of saying this is the direction we want to go. And the 2011 bill in the Senate that got bipartisan support at of committee was based in very significant part on those ideas. But he was a new President with a lot of momentum and a lot of support behind him. In that moment, the role he would play feels very different to me than the role he can play now, where a lot more is entrenched, a lot more of shooting at that President is more attractive than working with that President, which is different when somebody comes in with a big majority up front. So I think the big P "Politics" of the dynamics between the two parties and the dynamics with the President have a lot to do with the role a President can and should play in any given moment.

The last thing I'll say is in 2001, when we did NCLB, George Bush played

a very significantly different role, not by sending up sort of leg language, by saying these are the real parameters within a bill that I will sign must be built. Now go forth and build it. And they were actively engaged in keeping the process going, but stayed in their lane about the big parameters versus Congress' job of actually writing the legislation. And I think that has sort of defined the way people are trying to do it, but I don't know that we're there again.

MS. FLANAGAN: I also think Bethany's made a really great point, and I feel like the old lady here, but when I worked on Capitol Hill it was mostly New England senators and a few Midwestern members on the committees who cared about education. For them it was the reason they served and it was their love. They did not think they got a single political benefit out of being on Education. Even though I believed it was of political benefit, they didn't believe it helped them to win an election. As a matter of fact, the Senate -- the Republicans used to have a rule, because they couldn't get enough Republicans to serve on the committee because people didn't believe they could get reelected, that Education could be an extra committee in order to just get enough people to serve.

That all changed completely overnight when Bill Clinton and Newt Gingrich had their face-off over education funding and the government shut down, and this was in 1995. And it was sort of a stare-face for three weeks and Bill Clinton won, and it resurrected Bill Clinton, allowed him really to win a second term. And from there on in, everybody understood, if they had not understood it before, that education was a really important political issue.

And if you look at polling among Independent voters and you look at the growth in Independent voters, as the parties have become more and more narrowly defined on the right and the left and there's been this massive growth in people who do

not identify with the parties, elections are won over who can capture the hearts and minds of the Independents. And the number one issue among Independents, it varies a little bit, but education is always either number one or two.

So education has become not just a policy issue, but it's become a political issue. And I think that's a massive dynamic that -- and, you know, there'll be a point at which if any of this stuff -- and I think for No Child Left Behind, which has become a household word, that that will become even more difficult in a political year. Higher ed will have its own challenges politically, but the biggest one will be with No Child Left Behind because it's a suburban vote. It's where the Independent votes are and people's view of No Child Left Behind and what the solutions to it are.

MR. CHINGOS: So we have time for one more question amongst us before we turn to our audience. So I said we'd focus on politics, but let's end with a question about how politics intersects with policy.

So I'm curious what each of you see as the main sticking points in NCLB and HEA reauthorization. I think, Sarah, you already mentioned this, the ratings in higher ed. Bethany, you mentioned subgroups and K-12. What else should be on that list of sort of political landmines we should worry about if we're rooting for something to get done?

MS. FLANAGAN: I have several in higher ed. In higher ed, certainly some of the Executive Actions will make more players want to have a reauthorization, so that weighs in favor, whether it's the rating system, whether it's this obscure thing called state authorization which is fundamentally changing the nature of the states' roles with colleges, or the definition of credit hour, which is seen as a government a overreach. So there are a lot of things that the Executive Branch has done that makes higher ed as a community want Congress to do something.

On the other hand, there are huge risks because there are proposals to get rid of many of the traditional student aid programs, that's a big issue. Sexual assault, I think, is a major issue because we as a society haven't decided what the solutions are around that. And colleges certainly are trying to figure it out and it's a huge, huge public issue. But where we stand in the public depends on the most recent story that we heard and who was treated or not treated fairly, and how to get that right is extremely complex and could drive or halt a reauthorization.

Simplification, which is Lamar Alexander's big interest, could become so simplified that it adds complexity, and a lot of our members are very, very worried about that. And then this new concept, Skin-in-the-Game, where colleges are supposed to help pay for part of the default costs, would have huge financial implications for colleges' bottom line. And if not done correctly, I think it could be the thing that actually would completely halt a reauthorization.

So those are, from the field, the hot-button issues that we see in reauthorization that could either make or break the desire to have one.

MS. LITTLE: Jason, you want to respond to that one before we jump in?

MR. DELISLE: No, go ahead.

MS. LITTLE: So I would say Sarah and I may differ on the field slightly differently, so she sees it from a lot of the institutional perspective, I spend a lot of my time talking about it from the student perspective. And we see a lot of those moves as positive and want to see a reauthorization that sort of embraces some of those directionalities, specifically around the fact that taxpayers and students, because of the way we've designed the system where taxpayers put themselves on the hook and the student on the hook through the loans, at the same time are not getting a lot of value for a lot of the education they're paying for. And there's a lot of frustration with that and it's

growing in the public sphere in pretty significant ways.

And so I think we're going to see a pretty good serious debate as part of this reauthorization about what we do we do about that? I think the fact that it's a problem is becoming more and more of a given from a lot of people's perspective, but what to do about it seems very unclear still.

And I do think there are some interesting things on the table. I've really been impressed by the process that Senator Alexander and his team have taken on to go about this and had some thoughtful hearings and put forward some interesting papers and inviting some discussion, having real committee opportunity to dig in and build staff expertise. That all seems very smart to me.

And then there are moments like yesterday, when Lamar Alexander says, well, if we hadn't moved to direct lending, we wouldn't have the Corinthian College problem, which is insane. Those two things are completely disconnected. So if they're going to be serious about the policies I do think that there are some real policy problems that could unite people in their understanding of the problem. Whether or not they can unite people in their understanding of the solution seems very unclear to me at this point in higher ed.

MR. CHINGOS: Jason, do you want to add on to higher ed and then we'll let Marty handle K-12.

MR. DELISLE: Yeah. I mean, I think the value, quality, and the accountability issues around reauthorizing higher ed are big sticking points. And, Bethany, you got it right, I think there's still confusion about defining the problem and there's still a lot of confusion about what the solution is.

I mean, so often you see Republicans, who are in the majority now, they finally coalesce around defining a problem in higher education and then they sit and

pause and they say, well, so should do more or should it do less than, in solving those problems. And I think they're very much sort of caught in that cul-de-sac right now.

MR. WEST: So I think Bethany already hit on the key potential sticking point in ESEA, which is the extent to which the federal government should set parameters around state accountability systems. In the current Senate draft and in the House sort of parallel bill there's basically nothing. States need to test students annually, report the results in a disaggregated way, and they need to tell the federal government what they're doing with respect to accountability, but they don't have to intervene in a fixed number of schools or a fixed percentage of schools in a particular way or set of ways that are prescribed by the federal government. There are ongoing efforts to try and reinsert some of that back into the bill on the Senate side, and I think that has the potential to really trip up its progress, especially when you try and get something through the House, either passing the Senate bill or after in a conference proceeding. So I think that's probably the most important.

Then the other one, though, is something Republicans push, which is the concept of portability, the idea that Title 1 funds that are for the support of low-income students could be turned into more of a sort of portable grant program that would follow students to whatever school they attend. This is something that's been a popular idea on the right for some time. It does not have terribly strong support in Congress currently. You know, it doesn't have united support even among Republicans, but a lot of conservatives want to see it inserted, at least as an option for states. I think if conservatives insist on that being in there, that that makes it much harder to get a deal done, as well.

MS. LITTLE: Can I respond to one point Marty made about the subgroup accountability in the House? And to me, I see it almost the exact opposite. To

me, the fact that they need to address accountability subgroup in low-performing schools and those issues in a meaningful way in order to get Democratic and civil rights and support from those who represent students and their needs in the Senate is critical to the House because what we've learned from the House process to-date is they can't make a bill conservative enough to pass the House. And so what you're going to need is a bill that has Bobby Scott by it because he's going to have to work with John Kline to get something that's going to get through the House on a final passage vote. And he's not going to throw subgroup accountability and students of color and disadvantaged students under the bus, and neither is Patty Murray.

And so I think, at the end of the day, getting to some clarity around this bill that has existed from its history to be about the needs of disadvantaged students is going to have to create some ongoing leverage and support for those students and make sure that their needs are met or else they're not going to have a bill. The sooner that happens, the smoother the path will be because I do think there is a lot of momentum and there is a lot of directionality and they could do this, but that's something that needs to be addressed. And I think when you see in *The Washington Post* today Senator Alexander's quote had something to do with, well, we have the support of the governors and the chiefs and the unions, those are all the adults. And until you have a bill that actually has the support of folks who are looking out for the students' needs, I don't think you're going to get the Democrats to finalize a bill and I don't think you're going to get the President to sign it.

MR. CHINGOS: Great. Well, lots of interesting comments. Let's turn to your questions.

We have some folks with microphones, so let's start on the left here. The rules are tell us who you are and ask a brief question.

MR. ALTMAN: Okay. I'm Fred Altman (phonetic) and my question is how much influence does groups like the Brown Center have on the legislation?

MR. CHINGOS: So I guess that's a question for me. (Laughter) So I'll talk for a minute about how I see our role in the process and then I have only been at this for the last couple of years, so I'll let folks who have longer experience on the other side, they could tell you how much influence groups like the Brown Center have.

So I think we see our role here as crunching numbers and providing evidence that we hope will be helpful to policymakers. You know, occasionally we talk to folks on the Hill and provide advice on draft legislation and things like that, but I think the real people to ask about how much influence folks like me have is the people who we're trying to influence.

MR. WEST: Well, so I think you're being too humble. I think there are some -- at the start of this calendar year, the conversation around ESEA was whether the federal government should continue to require that students be tested annually in grades 3 through 8 and once in high school. And, well, you and I and our role as Brown Center affiliates were able, because we had access to some data that would shed light on that question, really show what that would mean with respect to the transparency around student achievement that would be available to parents and taxpayers. And so I think that type of analysis in real time that academics are not really well-positioned to do, but, in many cases, the think tanks, because they're aware of what's being discussed on the Hill and may have the free capacity or bandwidth to address it, you know, that type of analysis can be really useful.

As a general matter, though, I don't see evidence, whether from the academy or think tanks, you know, directly influencing the legislative process. I see it as much more of a longer-term process where ideas are developed in the academy, really

you need to then influence maybe not the general public, but at least stakeholders in the field, and then that's how Congress hears about it. So ideas like FAFSA simplification and things like that, which have their origins in the academy and academic research, think tank research, Congress isn't going to pay attention to it until they're also hearing it from institutions and stakeholders in the field.

MR. DELISLE: Yeah, I mean, I would say Congress doesn't have its own ideas. (Laughter) And, you know, I'd hate to see what they look like. (Laughter) So all of these things are coming from outside groups. That's where the expertise is. You know, when I worked on the Hill, after a few years of being there you realize that as a staffer, even as a very influential staffer, the senior spot on a committee, you are much, much more like a referee for a lot of ideas and competing interests than you are like a one-person think tank shop.

And, yeah, so I think that these kinds of institutions do have a pretty big influence on what's happening. I don't think it's like a smoke-filled room kind of, you know, private conversation. I think it's very much so out in the open, in op-eds and events like this.

MR. CHINGOS: Question here.

MS. DIXON: Hi. I'm Doris Dixon from the U.S. Department of Education and Legislative Affairs. I've worked with all of you over the years.

The question I have is the House is planning to bring H.R. 5 back up with the new rule with three conservative amendments placed in order. I get emails once a week from Republican leadership saying that this is the most conservative bill you're ever going to see, promoting this bill. Is it working? Do you think that these new amendments and the push from the leadership to pass this bill could work in the House?

MR. WEST: Well, I have no inside information, but that question actually

points out exactly why my analysis differs from Bethany's on where things are headed and what needs to happen to get a result in this Congress. Clearly, the House leadership is not trying to get a bill that Bobby Scott can get on board with, but rather saying we need to create a process that makes our most conservative members feel comfortable with ultimately voting for something that is conferenceable with what comes out of the Senate and then, hopefully, to vote on the results of that conference committee, as well.

And my expectation for how they would do that is to allow conservatives to offer and vote on an amendment that would look like the A+ legislative proposal, which is essentially a complete block grant of federal education spending to all those states who want to go in that direction. That's something that groups like Heritage and others have pushed for a long time. And I think this strategy is that if they left conservatives vote on that, it likely would not win because it doesn't have unanimous support among Republicans, but then maybe they'll be willing to go along with something beyond it. Whether it's working or not, I don't know, but that's my analysis of the strategy.

MS. LITTLE: Yeah, just to clarify, I don't disagree with that analysis at all. I think it's very insightful that the point of what it would take to shake a bill loose in the House, if that's the process you were going to follow, looks something like that. My point was simply the bill that's going to get signed by the President is going to have to be one that John Kline and Bobby Scott are on board with. So if we're not going to shake a bill loose in the House because we can't make it conservative enough to do that, then we have to find the other way to the end, and that path looks like figuring out a bill that has both parties' support.

MR. CHINGOS: Marty, do you see that process, is this about providing political cover for these members or is it more about kind of the psychology of bringing people along? Are we trying to figure out a way to kind of trick them to get us where we

want them to go or is it they want to go there, too, and they just need the political cover to be able to tell their constituents I voted to block grant it back to the states? I didn't get that, but what we got was still pretty good.

MR. WEST: Yeah, I don't know. It's a good question. I never thought of it before. All I've noticed is that once people are allowed to offer their amendments and get to vote on them, sometimes they change their view on what they're willing to support going forward. And whether that's a matter of personal psychology or political cover, I don't know. I think it's probably a little bit of both, but I would suspect that political cover has something important to do with it. They want to be able to point to specific actions in their communication with interest groups in their states' constituents in order to say here's what I attempted to do on your behalf even if I wasn't able to get the job done.

MR. CHINGOS: We have time for one more question. Let's get one in the back because we haven't been back there yet.

MR. RATNER: Hi. Gary Ratner, Citizens for Effective Schools. And I'd like to follow up, particularly with Bethany, on the subgroup accountability.

Could you tell us a little bit about the specifics of what you think a package would need to be for subgroup accountability in order to satisfy some of the speakers, particularly in the civil rights community and, therefore, also some of the Democrats and Bobby Scott?

MS. LITTLE: Sure. I can tell you, I don't know that my opinion matters that much in the current role, but I do think, look, they've been fairly consistent. It is where the students who are disadvantaged are and the leverage to make sure that their needs are being met. I don't think people are arguing over whether the federal government should tell states exactly what to do when the needs of those students are being met. I think that's part of the pendulum swing that everybody's on board with. But

whether or not something has to be done, that is where I think the line is drawn.

And so I think the idea that when students are in consistently underserved and underperforming subgroups in pockets in schools, they need their needs to be met, that has to be addressed. And when schools are -- students are in consistently low-performing schools, so whether it's a bottom 5 percent and a subgroup accountability for multiple years of not meeting goals, those two seem like very obvious pieces. Dropout factories, the ideas that we have high schools in which the majority of students don't graduate, and that's not somehow something we're going to address as part of ESEA, those lines they've been fairly clear about.

And I think that that package looks really light on what the requirements are from the federal level of what the intervention is, but that the states and districts define it. We understand that this bill and these funds are about meeting the needs of these students and we are going to ensure that something happens when they are consistently failed by their schools. That's where, I think, we're going to have to have some action.

MR. CHINGOS: We're more or less out of time. I'd like to end with kind of just go down the line and get a one-word answer about whether we will see ESEA or HEA this year. And if you don't like -- I don't particularly like yes-or-no questions, so you can give a probability if you prefer. Yes, no, or a probability between 0 and 1. And let's make it the ESEA or HEA. Are we going to have one by the end of 2015?

MR. WEST: So HEA I think has a very low probability because I think the process is really just getting warmed up. ESEA, I'm in a good mood today and so, as I said, I can tell a story that gets us there, and so I think I'll say 75 percent.

MS. LITTLE: So I like to agree with Marty. It makes me happy. I totally agree on the HEA, low probability. I don't think it's the trajectory they're on.

I think the presidential politics are heating up fast and furious and making it hard on ESEA, but the path is fairly clear and is attainable. The compromises are not that hard. They actually can be made. And so I would also give it a more than 50 percent chance that we'd see an ESEA.

MR. WEST: I think virtually all of the candidates would love to have this done before they take office, and so I think that cuts both ways.

MS. FLANAGAN: Since I am only a higher ed observer I get to just say no. (Laughter)

MR. DELISLE: Yeah, I mean, I don't think that the -- this year? No. Maybe next year on higher ed, but not this year.

MS. FLANAGAN: Just the workload.

MR. WEST: In 2016, it gets --

MS. FLANAGAN: Just the workload on the higher ed.

MR. DELISLE: It may be 2016, but I actually think that the presidential politics will really start to complicate higher ed as they are for ESEA right now, I actually think. At least for the Republicans I think higher ed is going to be a big presidential issue actually for maybe the first time ever.

MR. CHINGOS: So it sounds like the consensus is ESEA maybe yes, HEA almost definitely no.

Well, thank you all for joining us today and please join me in thanking our panelists. (Applause)

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