



ASSOCIATION OF UNIVERSITY CENTERS ON DISABILITIES
RESEARCH, EDUCATION, SERVICE

Legislative Affairs Report to the Board of Directors

June 16, 2011

Budget and Appropriations

Federal budget issues have been front and center since the 112th Congress convened in January. Many of the deficit reduction proposals under discussion resort to drastic cuts in funding for key safety-net programs without careful consideration of the consequences. In spite of this difficult budget situation, AUCD continues to work, with the help of Cornerstone Government Affairs, to advocate for the full range of programs that support individuals with developmental and other disabilities and weigh in on a range of budget-related issues. To strengthen its impact on the Hill and with the Administration, AUCD co-chairs the Fiscal Policy Task Force of the Consortium for Citizens with Disabilities (CCD) and joins advocacy efforts with the Coalition on Health Funding, Friends of HRSA, Friends of NCBDDD, and Friends of NICHD.

Fiscal Year 2011

The year began with Congress not having completed the annual funding for the previous fiscal year. After a series of six continuing resolutions, Congress passed and the President signed legislation on April 15 to fund federal programs for the remainder of the 2011 fiscal year. The final deal included roughly \$38 billion in cuts from previous spending levels, including an across-the-board cut of 0.2 percent to discretionary programs. ADD was able to protect the DD Act programs during these difficult negotiations. University Centers for Excellence in Developmental Disabilities (UCEDDs) were level-funded resulting in core grants at \$535,000 (this amount incorporates a COLA increase on top of the \$528,000 core amount). ADD was able to protect the basic grants from the 0.2% cut by taking a small amount out of other areas (NTIs, Minority Partnerships, and the TA contract). The Leadership Education and Neurodevelopmental and Related Disabilities (LEND) programs received level funding -- approximately \$28 million. The Eunice Kennedy Shriver National Institute for Child Health and Human Services (NICHD) was funded at \$1.317 billion, a slight \$9,000 cut.

Fiscal Year 2012

The movement to reduce the deficit and debt following the 2010 elections and the long dragged-out FY 2011 negotiations made it very difficult to begin the FY 12 budget and appropriations process. The President released his budget two weeks late (Feb. 14). His budget request would eliminate or trim more than 200 programs and reduce the deficit by \$1.1 trillion over the next decade. Two-thirds of the

savings would come from cuts to domestic spending—the largest portion being the Obama administration’s proposed five-year spending freeze for non-security discretionary programs. DD Act programs would be level-funded under the President’s budget.

Early in April, House Budget Chairman Paul Ryan (R-WI) unveiled his FY 2012 budget plan, entitled "The Path to Prosperity." The House budget, which passed the full chamber on April 15, proposes to set non-security discretionary spending at FY 2006 levels until FY 2016. The plan also calls for major restructuring in entitlement programs, including a block grant structure for Medicaid and converting Medicare to a premium support-type structure, which would result in millions more uninsured or underinsured. As co-chair of the CCD Fiscal Policy Task Force, AUCD helped to draft a press statement in opposition to the House budget and a letter to Representatives urging them to oppose the bill because its cuts would disproportionately impact individuals with disabilities. AUCD also sent a letter to the editor of *The Washington Post* to help educate the public about the impact of the budget on vulnerable populations. To our knowledge, it has not been published.

In mid-May the House Appropriations Committee released its budget allocations consistent with the cuts in the House budget. Overall discretionary spending is capped at \$1.109 trillion, \$30.4 billion (2.9 percent) below FY 2011 enacted levels. For the Labor-HHS-Education Appropriations Subcommittee, the allocation is set at \$139 billion, a \$18 billion (11.6 percent) decrease from FY 2011 levels (\$41 billion less than the President’s proposal). The House Subcommittee is currently scheduled to mark up the FY 2012 Labor-HHS-Education bill on July 26, with the full committee markup set for August 2. These numbers would bring L-HHS-ED programs back to almost FY 2004 levels!

Senate Democratic leaders immediately indicated that they would not accept the House budget proposal. However, with a slim majority, the Senate leadership has to find bipartisan agreement on a budget plan that will garner the 60 votes needed to overcome a filibuster. Thus, a bipartisan “Gang of Six” Senators tried to work out a deal with little success to date. In addition, Vice President Joe Biden is chairing a different bipartisan group of congressional leaders (Senators Max Baucus (D-MT), John Kyl (R-AZ), Daniel K. Inouye (D-HI), and Representatives Eric Cantor (R-VA), James E. Clyburn (D-SC), and Chris Van-Hollen (D-MD)) working to produce a deficit reduction plan by the end of June. Senate Budget Chairman Kent Conrad (D-ND) has held off introducing a Democratic budget resolution until he knows the outcome of these negotiations.

Mixed into this political and sometimes ideological battle is the looming deadline (August 2) to raise the national debt ceiling. The Republican leadership continues to use the must-pass debt ceiling vote to demand deep and immediate cuts in spending, including changes to budget procedures such as automatic rescissions (sequestrations) without protections for low-income and entitlement programs.

The House Judiciary Committee is also considering a "balanced budget amendment" (H. J. Res.1) that would amend the U.S. Constitution to require the federal government to limit spending to the amount of revenues it takes in each year. It would also limit total outlays for any year to one-fifth of the Gross

Domestic Product, among other limitations. Once again, the Senate is not likely to take up the resolution, and a balanced budget amendment is not supported by the President.

Because of this most difficult budget scenario, AUCD staff worked harder than ever to educate members of Congress about the important role of each of the AUCD network programs. AUCD assisted association members on Hill visits with key appropriators. As this report was going to press, AUCD staff was preparing to take staff of the majority and minority members of the L-HHS-ED Appropriations Committee to visit with the Maryland UCEDD and LEND program on Friday, June 17. Senator Harkin's office staff also joined the tour. AUCD was also able to join with its DD partners in advocating for Sen. Richard Blumenthal (D-CT) to prepare a "Dear Colleague" letter to appropriators in support of funding for the UCEDD, DD Council, and P&A programs.

Medicaid

Last August, President Obama signed into law the Education Jobs and Medicaid Assistance Act (H.R. 1586), providing \$16 billion to extend enhanced federal Medicaid funding under the Recovery Act for an additional six months. Unfortunately, another extension of the enhanced FMAP is not part of current budget negotiations. In fact, proposals to cap Medicaid spending or fund the program through block grants are still on the table as lawmakers try to find ways to reduce the deficit.

Despite objections from advocacy groups and a number of Governors, the House Energy and Commerce Committee's Subcommittee on Health passed the [State Flexibility Act of 2011](#) (H.R. 1683) along party lines by a vote of 14-9 in May. The bill would repeal provisions in the 2009 stimulus bill and the Patient Protection and Affordable Care Act of 2010 that require states to maintain current eligibility standards in Medicaid until 2014 and in the Children's Health Insurance Program until 2019. Repealing these Maintenance of Effort requirements would allow states to limit eligibility and enrollment, likely increasing the population of uninsured. Democrats presented three amendments to protect vulnerable populations, including people with disabilities, during the bill markup. All of the amendments were defeated along party lines. Identical legislation has been introduced in the Senate ([S. 868](#)) and is currently in the Finance Committee awaiting action.

AUCD is working with the CCD Ad Hoc Medicaid Task Force and a coalition of aging and disability groups called the Friday Morning Collaborative to develop advocacy materials and conduct Hill visits opposing any drastic Medicaid cuts or structural changes.

Home and Community-Based Services Waiver

On April 15, 2011 the Department of Health and Human Services published [proposed rules](#) for the Medicaid Program: Home and Community-Based Services (HCBS) Waivers. The proposed rule revises regulations implementing the home and community-based services (HCBS) waivers under section 1915(c) of the Social Security Act by providing states the option of combining waivers, including expectations related to person-centered plans, outlining characteristics of settings that are not home

and community-based, clarifying timing of amendments and public input when modifications to state plans are proposed, and outlining strategies CMS may use to assure state compliance with the provisions of the Act. AUCD worked with the CCD Long-Term Services and Supports Task Force to review the proposed rules and provide comments. AUCD also submitted its own comments and encouraged network members to do the same. The deadline was June 14, 2011.

Health Care Reform

The Patient Protection and Affordable Care Act (ACA) continues to receive both praise and criticism as implementation begins. On one side, the Administration continues to implement the law, issuing proposed regulations and disseminating funding to carry out its many provisions. On the other side, the law continues to be attacked through every means possible. Many newly-elected Republicans in the House of Representatives campaigned on promises to repeal the law, and they began the 112th Congress with a bill (H.R. 2) that would have done just that. Although that bill could not pass the full Congress, the ACA's opponents have directed their attention to dismantling it piece-by-piece, mainly by eliminating or redirecting funding for its implementation. Others have turned to the courts, filing constitutional challenges to the law's requirement that most Americans purchase health insurance by 2014, the so-called "individual mandate". Courts have decided the issue differently, and it is expected to ultimately reach the Supreme Court.

Specifically, bills have been introduced to repeal the Prevention and Public Health Trust Fund (H.R. 1217), Medicaid "Maintenance of Effort" Provisions (S.868, H.R. 1683), the Community Living Assistance Services and Supports Act (S. 720) and funding for state-based health insurance exchanges (H.R. 1213). The House also passed a number of amendments tied to appropriations legislation to defund the law, but none of those were ultimately enacted. Conversely, the Senate Health, Education, Labor and Pensions Committee held a series of hearings focusing on the ACA's protections and benefits.

AUCD has continued to educate the network through its [Health Reform Hub](#) and work with the CCD Health Task Force, the Coalition for Health Funding and a number of other advocacy groups to support the law's funding and implementation. AUCD collaborated with the Health Task Force to develop comments on proposed rules related to dependent coverage, grandfathered health plans, preventive services, essential health benefits, and health benefit exchanges. AUCD also worked with the CCD Long-Term Services and Supports Task Force and a coalition of aging and disability groups (the Friday Morning Collaborative) to develop comments on proposed regulations to implement the ACA's Community First Choice Option in Medicaid. AUCD is a charter member of [advanceCLASS](#), a new organization dedicated to the implementation of the Community Living Assistance Services and Supports (CLASS) program in the ACA. Through that group



and individually, AUCD is working with the Office on CLASS within the Administration on Aging to ensure that the CLASS program will be strong and sustainable.

Autism Policy

Combating Autism Act Reauthorization

With the Combating Autism Act's "sunset" date (September 30) drawing near, AUCD has been working hard to gain congressional support to reauthorize the law. As co-chair of the CCD Autism Task Force, AUCD developed a sign-on letter and coordinated Hill visits with key congressional committee members about the need for urgent action on the CAA. The Task Force also advocated for additional provisions to address the service needs of youth and adults on the spectrum, including a provision that would provide supplemental funding for UCEDDs to provide technical assistance, train professionals, and conduct research and develop model services. Unfortunately, it is extremely difficult to achieve bipartisan support for any legislation or new provisions that include increased authorizations for appropriations in the current political climate.

On May 23, bipartisan bills were introduced in both chambers to extend the law for an additional three years at FY 2011 funding levels. The Combating Autism Reauthorization Act (S. 1094) is sponsored by Senators Robert Menendez (D-NJ) and Michael Enzi (R-WY), ranking minority member of the Senate HELP Committee, along with Sens. Scott Brown (R-MA) and Richard Durbin (D-IL). Representatives Chris Smith (R-NJ) and Mike Doyle (R-PA), co-chairs of the Bipartisan Caucus on Autism, introduced a companion bill (H.R. 2005). None of the services provisions were included. Instead, the services provisions were included in a separate bill introduced by Sen. Menendez, but that bill has no co-sponsors. Reps. Doyle and Smith also introduced a companion services bill in the House.

To support the champions of the Combating Autism Reauthorization Act, AUCD developed a letter signed by 25 major national disability organizations expressing support for the bill. AUCD also sent its own support letter to all members of the Senate HELP and House Energy and Commerce Committees. To date, there are a small number of groups opposing the bill because it fails to address the service needs of youth and adults with autism. However, AUCD remains hopeful that the bill will be passed under unanimous consent procedures in both the House and Senate. The bill has strong support from HELP Committee Chairman Harkin (D-IA) as well as Energy and Commerce Committee Chairman Fred Upton (R-MI). President Obama and HHS Secretary Kathleen Sebelius also expressed support for the reauthorization.

In addition to the reauthorization of CAA, Senate Majority Leader Richard Durbin (D-IL) re-introduced the Autism Services and Workforce Acceleration Act (S. 850) in April. This bill, first introduced in the previous Congress, is intended to address the service needs of adults on the spectrum. The bill also contains the provision to provide supplemental funding for UCEDDs that is similar to the provision in the Menendez bill and the Training and Research for Autism Improvement Nationwide (TRAIN) Act that was

passed by the House of Representatives in the 111th Congress. Unfortunately, this bill does not have any Republican co-sponsors and has not been scheduled for further action. There is no House companion bill to S. 850.

Education

Elementary & Secondary Education Act

Education Reform continues to receive attention in the 112th Congress as deadlines under No Child Left Behind's accountability provisions loom in the near future. However, no bills to reauthorize ESEA have been introduced to date. The Senate Health, Education, Labor and Pensions Committee is working on a base reauthorization bill, but has fallen behind in plans to introduce it by Easter and pass it before the start of the next school year. It is expected to be relatively small and non-controversial, with more controversial changes to be made through amendments. The House will likely introduce a series of smaller bills aimed at reducing the federal role in education. The House Education and Workforce Committee recently passed the first in this series of bills, the Setting New Priorities in Education Spending Act (H.R. 1891), which would eliminate 43 federal education programs deemed wasteful or inappropriate by the bill's sponsors. Many of those programs were defunded in the FY 2011 continuing resolution, marked for consolidation or elimination in the President's FY 2012 budget request, or have not been funded in recent years. The bill is not aimed at reauthorizing any of ESEA's provisions. At this point, it is not clear how the two chambers will be able to come to agreement and finish a reauthorization bill before the end of the year.

Education Secretary Arne Duncan stirred the waters recently when he announced that if Congress does not reauthorize the law before the beginning of the next school year, the Department is prepared to grant states waivers from some of NCLB's requirements. In return for such waivers, states would be required to adopt a set of prescribed policies that have yet to be finalized, but are expected to reflect the goals of the Department's Race to the Top program. Duncan's plan has received broad criticism from both advocacy groups and Congressional leaders who have been working to draft a bipartisan bill. Most are concerned that the announcement will create a disincentive for Congress to act or that states may try to game the system and sign onto the set of changes without really committing to them. Disability advocates want to ensure that any waiver will not leave students with disabilities out of the accountability system.

AUCD participates on the CCD Education Task Force and helped to develop principles for ESEA reauthorization. AUCD also signed onto letters from the task force regarding subgroup accountability under ESEA and expressing concerns about a bill that would provide special education vouchers for military families.

Restraint & Seclusion

Ranking Minority Member George Miller (D-CA) of the House Education and Workforce committee reinforced his commitment to reducing the use of restraint and seclusion in schools by introducing the

Keeping All Students Safe Act (H.R. 1381) again this Congress. The bill is identical to the one passed by the full House of Representatives last year, and has bipartisan support with Gregg Harper (R-MS) as an original cosponsor. However, moving the bill through the House will be difficult, as the new Education and Workforce Chairman, John Kline (R-MN), voted against the measure last year.

AUCD has partnered with the Education Task Force and the Alliance to Prevent Restraint, Aversive Interventions and Seclusion (APRAIS) to develop a consensus draft bill for the Senate. Although a standalone bill may be introduced in that chamber, ultimately its provisions will probably need to be included in an ESEA reauthorization bill. Given the current political climate and the push to reduce federal involvement in education, passing a bill to regulate the use of restraint and seclusion will be an uphill battle. AUCD will continue to highlight the work being done in its network on school-wide Positive Behavioral Interventions and Supports.

Highly Qualified Teachers

An amendment to No Child Left Behind's definition of "highly qualified teacher" was passed in one of the FY 2011 continuing resolutions early in the year, without notice to stakeholders or public debate. The amendment allows states to label teachers as "highly qualified" when they are still in training in alternative route programs; in many cases, teachers who are just beginning their training can be labeled as highly qualified. The provision codifies a Bush Administration regulation and seeks to reverse a federal appeals court ruling that the regulation violated NCLB's requirement that only fully prepared teachers be deemed highly qualified. Over 70 stakeholder groups have come together to form an informal coalition to inform lawmakers about the problems with such a policy, namely, that it will have a disproportionate impact in the most vulnerable populations, including students with disabilities. AUCD signed onto letters to President Obama and Congressional leaders and has been meeting with Congressional offices in hopes of repealing this provision.

IDEA Fairness Restoration Act

Finally, bills were introduced in both chambers aimed at allowing parents involved in due process proceedings under the Individuals with Disabilities Education Act (IDEA) to recover expert witness fees if they prevail. The IDEA Fairness Restoration Act (S. 613, H.R. 1208), sponsored by Sens. Tom Harkin (D-IA), Barbara Mikulski (D-MD) and Bernie Sanders (I-VT) in the Senate and Reps. Chris Van Hollen (D-MD) and Pete Sessions (R-TX) in the House, aims to overturn a 2006 Supreme Court ruling (*Arlington Central School District v. Murphy*) holding that parents cannot be reimbursed for expert witness fees incurred as part of due process proceedings. The ruling put families at a disadvantage in due process because these fees are difficult for many low- and middle-income families to afford. AUCD has signed on to letters in support of the bills and set up an alert in its Action Center.

Employment

Workforce Investment Act

The Senate Health, Education, Labor and Pensions (HELP) Committee has fallen behind its planned schedule to introduce legislation to reauthorize the Workforce Investment Act, including the Rehabilitation Act. As this report was being finalized, an initial draft of the reauthorization bill was being circulated to stakeholders. AUCD is in the process of reviewing the draft, which it is expected to include increased enforcement measures regarding subminimum wage certificates and provisions aimed at preventing youth from transitioning into segregated or subminimum wage work settings. It is not expected to repeal Section 14(c) of the Fair Labor Standards Act, which allows for the use of subminimum wage certificates.



The HELP Committee held a hearing on employment of people with intellectual disabilities early in the year. Bill Kiernan, Director of the Institute for Community Inclusion at the University of Massachusetts, and co-chair of the AUCD Legislative Affairs Committee, provided testimony representing the UCEDD and AUCD. He also provided similar testimony at a meeting of the Equal Employment Opportunity Commission a few weeks later.

AUCD collaborates with the Consortium for Citizens with Disabilities Employment and Training Task Force and the Collaboration to Promote Self-Determination to develop recommendations on employment policies for individuals with disabilities. AUCD will work with these groups to review and develop comments on the draft WIA bill.

TEAM Act

In February, Representatives Gregg Harper (R-MS) and Cathy McMorris-Rodgers (R-WA) introduced a package of three related bills aimed at creating a coordinated, comprehensive approach to the investment of public resources to expand opportunities for youth transitioning into adulthood. Together, the bills are known as the [Transition toward Excellence, Achievement and Mobility Act](#). The TEAM-Education Act (H.R. 602) amends the Individuals with Disabilities Education Act (IDEA); the TEAM-Empowerment Act amends the Developmental Disabilities Assistance and Bill of Rights Act (DD Act); and the TEAM-Employment Act amends the Rehabilitation Act. The bills have received mixed reviews because they aim to eliminate the use of facility-based or segregated programs in the provision of transition services. AUCD is working with its Legislative Affairs Committee and the CCD Employment and Training Task Force to analyze the bills.

DD Act and Family Support

There has been no movement on legislation to reauthorize the DD Act. The Administration on Developmental Disabilities held a series of forums (Envisioning the Future as well as self-advocacy summits) to gather input on the needs of people with disabilities. In addition, ADD sponsored a Wingspread family support summit held in Racine, Wisconsin March 6-8. The purpose of the summit was to build a national coalition and agenda to support federal policies to support families of children and adults with developmental and other disabilities. AUCD's Family Support Special Interest Group played a strong role in planning and conducting the summit. AUCD legislative affairs staff also participated. It is anticipated that the recommendations from these forums will inform the Administration as it considers developing recommendations for a bill to reauthorize the DD Act.

Disability Policy Seminar



AUCD again partnered with The Arc, United Cerebral Palsy, National Association of Councils on Developmental Disabilities (NACDD), American Network of Community Options and Resources (ANCOR) and Self Advocates Becoming Empowered (SABE) to sponsor another successful Disability Policy Seminar this past February. Armed with loads of information following two days of intense sessions on budget and appropriations, health care, employment and other legislative issues impacting people with disabilities, over 600 seminar participants blanketed Capitol Hill to educate their Members. Of the 600 attendees, approximately 200 identified themselves as members of AUCD - 110 were UCEDD or LEND trainees – a record representation of the network!

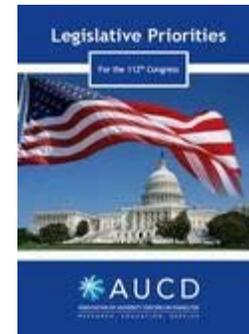
AUCD's 2010-2011 Virtual Trainee, Suzanne Engel, asked trainees in attendance to share reflections on their experience at the Seminar by responding to three sentence-starters: "At the DPS, I...", "On the Hill, I...", and "One thing I will bring back to my program is..." Responses were included in a document titled "[Disability Policy Seminar 2011: Reflections from AUCD Trainees](#)" which provides an overview of the impact the DPS had on trainees.



During the Seminar, the Leadership in Disability Policy Award was presented to Senator Barbara Mikulski (D-MD) at a luncheon in her honor. Senator Mikulski was instrumental in the passage of "Rosa's Law" which replaced the outdated and stigmatizing term "mental retardation" with "intellectual disability" in many federal statutes. She is also a strong supporter of the Lifespan Respite Care Act and other caregiver support laws.

Legislative Goals

With the help of the Legislative Affairs Committee and the AUCD Board of Directors, AUCD developed its Legislative Priorities for the 112th Congress. Our top priorities this year fall under themes of federal funding and fiscal policy, autism, DD Act, community services and supports, education, employment, health care reform, research and Social Security. Specifically, we aim to:



- Urge Congress to ensure federal support necessary to meet the vital human needs of people with disabilities and to expand and increase federal investment in research, education, training and support and service programs that enable them to live and work as independently as possible in the community;
- Promote the reauthorization and funding of the following:
 - Combating Autism Act before its expiration in September of 2011;
 - Developmental Disabilities Assistance and Bill of Rights Act (DD Act);
 - Elementary and Secondary Education Act (ESEA), including protections against abuse, aversive interventions, and the inappropriate use of physical, mechanical and chemical restraint and seclusion for all students;
 - Workforce Investment Act (WIA) and support of employment first strategies;
- Work toward elimination of Medicaid’s institutional bias;
- Protect the Affordable Care Act;
- Safeguard income support programs under the Social Security Act; and
- Advocate for investment in a broad range of research and evaluation across federal agencies.