



The Daily Dish

## August 21st Edition

SALLY GRAY LOVEJOY | AUGUST 21, 2014

The Chief of Staff for FCC Commissioner Ajit Pai, [thinks the agency](#) will, and should, face an uphill battle intervening in the municipal broadband fight. During a speech last night he told the crowd, “Absent clear statutory authority, five unelected individuals, or more likely fewer, should not nullify the wishes of the people’s elected representatives in one state, let alone twenty-one states.” This is in response to statements made earlier this year by Chairman Wheeler pledging to intervene and force states to change laws that make it difficult for municipal broadband projects.

The Treasury Department is looking to step in where the president’s authority ends. Not divulging any specifics, a Treasury spokesman confirmed with the [Washington Examiner](#) that the agency intends to pursue policies that “meaningfully reduce the tax benefits after inversions take place, to at least provide a partial fix.” The problem is that this “partial fix” does not get anywhere close to addressing the root of why companies are forced out of the US. Douglas Holtz-Eakin has a [video](#) on why companies leave and what the government can do to save jobs.

***Eakinomics: GAO Report on NCLB Waivers– Guest Authored by Sally Gray Lovejoy, AAF Education Expert***

Last week, Congressman John Kline, Chairman of the House Education and Workforce Committee and Senator Lamar Alexander, Ranking Member of the Senate HELP Committee requested a report by the General Accounting Office (GAO) on the Obama Administration’s waivers to the Elementary and Secondary Education Act (ESEA). This in-depth investigation is long overdue.

[Announced in 2011](#), waivers to the No Child Left Behind (NCLB) Act alter the requirements of the law on certain states. In exchange, schools and districts in 43 states and the District of Columbia have committed to new education targets not set forth in law. Typically, waiver states must tether evaluations of teachers and schools to student achievement data, which were traditionally used to rate schools and districts under NCLB, rather than teachers. Other efforts to impose new requirements on states as a condition of the waiver include compelling states to adopt more standards and redesigning accountability systems. These NCLB waivers are typically beyond the scope of the law and are one of the most egregious examples of the Obama Administration assuming the role of Congress and exerting authority it doesn’t have.

Though the Department of Education has been approving waivers for years now, the forthcoming GAO report on the details of the process represents the first substantial attempt by Congress to push back on the administration. Regrettably, lack of congressional action on the matter has allowed the department to gut the major accountability provisions of the law that required States and school districts to increase academic achievement for disadvantaged students.

Unfortunately the administration doesn’t often believe it requires congressional authority, and the NCLB waivers are no exception. This GAO report will be useful in determining whether or not these waivers are permitted by law, and to what extent they go beyond congressional intent. Perhaps the lesson is that Members of Congress should, as a matter of standard procedure, unite to oppose abuses of executive authority *as soon as they occur* in order to maintain the separation of powers and continue to write the laws as our Constitution

envisioned.

***From the Forum***

[The Cost of Compensation and Fee Disclosure for Pharmacy Benefit Managers](#) by Douglas Holtz-Eakin, AAF President

[Primer: The Disproportionate Share Hospital \(DSH\) Program](#) by Brittany La Couture, AAF Health Care Policy Analyst