



The United States Office of Education as an Initiator of Library Legislation

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It is a peculiar fact of life that an average citizen—assuming he is not a mythological creature—often thinks of a legislative proposal as arriving full-blown on the floor of Congress. This way of thinking disregards a gestation period which may extend for several years (and this seems to hold true particularly for education legislation) while the executive branch is involved in the nurturing of a proposal for consideration by Congress. Resulting proposals have been as complex as the Elementary and Secondary Education Act and the Higher Education Act of 1965. It is certainly appropriate for librarians to be aware of representative procedures and activities which can take place in a federal agency—in this case, the U.S. Office of Education (OE)—in the preparation of a library-related legislative proposal.

There is no one account of the complete interactions between Congress, the White House, the Bureau of the Budget, the other appropriate federal agencies, the assortment of special advisory committees, and the concerned associations and individuals in their involvement in the passage of any current education legislation. Even the words “library legislation” are not always clear, as very significant grant aid has been given to librarianship under legislation in which libraries are seemingly only a small part of the total picture. A particular administration proposal does not always remain unchanged since significant changes can be made at different levels in the process. A comprehensive, scholarly report of the entire library legislative process which would include the influence of key individuals—librarians, congressmen, U.S. officials, and others—who have been at the right place at the right time would be useful. This brief article can only highlight a few past and some current activities and interactions affecting librarianship.

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OE is only one of the many federal agencies involved with library legislation. Each federal agency is quite unique in its organization, its planning, and its administrative processes, although all may have somewhat similar procedures in the preparation of legislative proposals. A comparison might be in the differences and similarities in the passage of legislation in the different states.

In the total legislative process, the activities of Congress usually occupy the limelight. In referring to a claim by some authorities that the founding fathers designed the process to prevent rather than to pass legislation, a former congressman, presently a Washington legislative consultant, wrote: "The legislative process is, indeed, an obstacle course—complete with live ammunition! En route through the labyrinth, a proposal is strengthened or weakened, perfected or destroyed, compromised or gutted, depending on one's point of view."¹ The fact still remains that the legislative process is a bulwark of our representative system.

An extremely comprehensive study of the Office of Education which includes a great deal of information on its legislative involvement was made by a congressional committee. Chaired by Congresswoman Edith Green of Oregon, the Special Subcommittee on Education of the House of Representatives' Committee on Education and Labor, produced an interesting study of OE which will be referred to in this article as the Green report.²

What is the legislative process? The Green report notes: "In essence, the legislative planning process is one of collecting and screening ideas and proposals. The Office of Education reports that there is no lack of ideas, but that the problem is finding proposals which meet educational needs and simultaneously pass the tests of practicality, such as administrative feasibility, budgetary considerations, and political acceptability."³ In a 1966 Allerton Park Institute on federal library legislation Edmon Low made four significant points:

- (1) legislation of any sort must first be an idea in the mind of an individual or of a group and then be formulated on paper as a proposal;
- (2) the completed bill always represents the work and thinking of many individuals both in and outside of Congress and often is radically different from the original proposal, as was the case with the Higher Education Act;
- (3) several years, some say the average may be as much as ten, may well elapse from the proposal of legislation to the passage of the completed bill; and last and most important from the standpoint of this paper, (4) the impact on the

thinking of the people involved, librarians, presidents, and educators as well as laymen and Congressmen, as hearings and discussions on a bill are held which provide information and expose different points of view, is very real and significant.⁴

OE does not produce legislation. This is a function and responsibility of Congress. However, though not in the limelight, OE is involved in the preparation of legislative proposals, a process which can be extremely time-consuming. New thinking is required on existing problems—problems which are often thought of as having no possible solution. The interaction among librarians, association members, legislators, government officials, and others is crucial in producing viable results.

With the growing magnitude of educational needs in our country, the federal role in education, including libraries, has grown. The initial and key library legislation was the rural public library program, the Library Services Act (LSA), passed by Congress in 1956. The success of this act was an influential factor in the passage of other library legislation.

The Office of Education's role in the passage of LSA was negative. The kindest description is that the agency showed a "lack of general enthusiasm" toward the legislative proposal. Credit belongs to the American Library Association whose battle began even before the original Public Library Demonstration Bill was first introduced in 1946 by Senator Lister Hill of Alabama and Representative Emily Taft Douglas of Illinois. Those early days had their moments of human interest. In his book, *Public Libraries for Everyone*, Hawthorne Daniel writes that "a number of especially well-informed librarians" (which included Ralph M. Dunbar, Ralph R. Shaw, and Paul Howard) met in Carl Milam's Washington hotel room in the spring of 1944 to firm up the long-considered legislative proposal which would eventually end as the LSA.⁵

The Office of Education soon became more *officially* involved. To illustrate the complexity and variation in OE's legislative and planning process, the Green report used the reply of Samuel Halperin, former deputy assistant for legislation of OE, when he was asked to trace the development of the different titles of the Elementary and Secondary Education Act of 1965 (ESEA).

Halperin's response covered the last title of the act first and worked backwards. The answer, incidently, for each title was quite different. His exact, but somewhat grammatically uneven answer for Title II,

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the title which made millions of dollars available to the states for school library resources and instructional materials, follows:

Title II, the need for additional instructional materials, that also came out of Dr. Harris' Bureau at that time, but we in the Office of Legislation looked very carefully at the proposals then circulating on the Hill, particularly a proposal by Congressman Carey of New York. He had a bill up there; we looked at it and thought it was a pretty good idea. We made very substantial modifications in it before it got to the Hill. In that process, by the way, we consulted with many groups. The Bureau of the Budget, of course, had views; the Attorney General had views on constitutionality questions.⁶

This was the complete statement on Title II of ESEA. It should be clearly understood that each person connected with legislation such as this would have had a somewhat different experience and would have reported on it in a different manner than Halperin. (For historical purposes, the Dr. Harris mentioned in the statement was Arthur L. Harris who was then OE's associate commissioner for educational assistance programs.)

The passage of major legislation can have a great effect upon the agency to which it is delegated for administration. The passage of ESEA, plus the influence of some other forces, was responsible for a massive—and what has been described as traumatic—reorganization of the Office of Education. One of the purposes of this reorganization was to enable OE to function better in its planning and evaluation role. Recommended reading on this subject is the study, *ESEA: The Office of Education Administers a Law*, by Stephen K. Bailey and Edith K. Mosher, published in 1968 by the Syracuse University Press.⁷

The Higher Education Act of 1965 (HEA), together with the Higher Education Facilities Act of 1963 (HEFA), very significantly assisted the development of librarianship in the United States. HEA, in particular, had an involved legislative history; Edmon Low in the previously cited 1966 Allerton Park Institute paper, touched on historical aspects of the passage of this legislation.⁸ Passage of HEFA—an important bill because it was the first major legislation providing federal funds for both publicly and privately supported schools—paved the way for passage of HEA and ESEA. The rationale apparently was that buildings were considered less controversial than materials when confronting the church-state issue. In a 1962 congressional hearing, Low was able to authorize ALA approval for Senator Yarborough's

request to insert a provision in the proposed HEA legislation stating federal grant support could not go to a seminary or any institution whose major purpose was training individuals for the ministry of any faith. This is another example of appropriate people at the appropriate place at the appropriate time.

Richard H. Leach in a paper for the National Advisory Commission on Libraries stated: "Library-aid legislation has come about chiefly at the initiative of Congress, or perhaps better put, at the initiative of lobbyists active in behalf of libraries, rather than as part of any Executive program or drive."⁹ In its chapter on planning and evaluation the Green report was specifically concerned with the part that educational associations play in the legislative process. The report of this Special Subcommittee on Education indicated that there was a great variance in the degree of participation of national associations in the legislative process. It was the impression of the subcommittee that the national associations were generally satisfied with the relationships that had developed.¹⁰

Certainly, over the years the relationships of OE units and staff concerned with library planning and development have been close with the various library associations and groups, particularly with the American Library Association's Washington legislative office. Carma Leigh's paper, "The Role of the American Library Association in Federal Legislation for Libraries," given at the 1966 Allerton Park Institute, is recommended reading on this point.¹¹

Any historical account should also give consideration to the many advisory committees—many directly associated with OE—which often answered directly the question of federal assistance to libraries. A Presidential Advisory Committee on Education in 1938, chaired by Floyd W. Reeves, endorsed federal assistance in the training of school librarians as well as a program of library services for rural areas.¹² The study by Carleton B. Joeckel, *Library Service*, a report prepared for the consideration of that Presidential Advisory Committee on Education, is a landmark study in the history of federal aid to libraries.¹³

After the passage of LSA, a series of OE advisory committees on the library programs of OE met annually. Their recommendations, focused on LSA, greatly assisted OE in the administration of this legislation. No committees were established for the Library Services and Construction Act (LSCA), passed by Congress in 1964, expanding LSA. Two new OE library advisory committees were created in connection with the programs under Titles II-A and II-B of the Higher

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Education Act. These still-active committees are the Advisory Council on College Library Resources and the Advisory Committee on Library Research and Training.

Lastly, the National Advisory Commission on Libraries, funded under the research section of Title II-B of HEA, was responsible for the most comprehensive study of federal involvement in library services. The 1968 final report, with the preliminary studies, has many direct and indirect implications for federal legislation. The findings and recommendations deserve the close attention of all concerned with library development in the United States.¹⁴

The contributions of national library associations and advisory committees to OE planning and legislation are significant. Less glamorous and usually less publicized operations are the daily activities in which the federal offices are directly involved in preparing legislative proposals. The interactions involving OE under the Johnson administration are documented, critically but fairly, in the Green report in the chapter on planning and evaluation.¹⁵ Here, it can be pointed out, that the administration of each president has distinct characteristics and differences as contrasted to previous administrations. There are, however, basic interactions and activities in all of them in the preparation of legislative proposals as they are readied for congressional consideration.

The activities focused on legislative proposals within OE (including regional units as well as headquarters units) intermesh with the operations of appropriate staff and units within the Department of Health, Education, and Welfare (DHEW), the Bureau of the Budget (BOB), and with White House special assistants and other advisors. A detailed, closely coordinated schedule is followed on a year-around basis so that actions and reactions can take place in logical sequence. Operating within this structure, the legislative proposals are normally a by-product of the planning and evaluation operations which take place at all levels in OE and DHEW.

Legislation—and this bears constant repetition—is rarely, if ever, born in isolation. Its existence from the standpoint of the administration is tied directly to the consideration of national priorities and goals, the evaluation of existing conditions and present assistance programs, the consideration of alternative approaches in reaching objectives, and the careful study of fiscal feasibility in funding programs. The Green report recommended a general broadening of the OE planning system, stating that “the staff for the entire Office of Education in the

planning and evaluation function was quite small and underbudgeted."¹⁸ This situation has been improved to some degree by the increased number of contracts with outside organizations, institutions, and individuals for evaluation activities.

The Office of Legislation in OE has the primary responsibility for developing and preparing new legislative proposals, and working with the DHEW over-all legislative unit, the appropriate congressional committees, other governmental agencies, national associations, and advisors at various levels. As brought out by Halperin's remarks on ESEA, the legislative process usually involves collating ideas for legislation and then preparing a formal legislative proposal. Prime source material for this proposal comes from OE's Office of Program Planning and Evaluation which works with the planning and evaluation staff of the various bureaus and sub-units of the bureaus, the regional offices, and the other units of OE. There is direct and clear involvement of the Office of Legislation in the presentation of any OE testimony before congressional committees.

Trends in the past months have included increased strengthening of the relationship between OE and various units of the Office of the Secretary of DHEW. These DHEW units include the Office of the Assistant Secretary for Education, the Office of the Assistant Secretary for Legislation, the Office of the Assistant Secretary for Planning and Evaluation, and the Office of the General Counsel. These units are interacting on the planning cycle and are involved in legislation with OE's Office of the Commissioner; Office of the Deputy Commissioner; Office of Legislation; Office of the Deputy Commissioner for Planning, Research, and Evaluation; and Office of Regional Office Coordination. There are planning and evaluation inputs from the National Center for Educational Statistics and the National Center for Educational Research and Development. Key OE officials—the Commissioner of Education and the Deputy Commissioner for Planning, Research, and Development—have formal offices at both the OE and DHEW levels, greatly assisting problems of cooperation and coordination.

A second trend that should be mentioned is the upgrading and strengthening of the regional offices so that they can become an integral part of OE's effort to provide leadership for American education. The regional staff will be playing a stronger role in program administration and will be making substantial contributions to the legislative proposal process.

Drafting legislation is a difficult and complex task. It is not easy

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to accomplish the design of the lawmaker, even for the simpler legislation. The legislative units of both the office and the department are expected, in working with congressional committees, to draft administrative proposals for congressional consideration. At times, the legislative pitfalls cannot be foreseen and an existing act will have to be changed. The technical amendment process is then used. In brief, this is legislation which does not change the substance of the original legislation; however, it is not unimportant. The changes are often needed to correct errors and to allow for changes in circumstances which can make the original legislation quite ineffective. After a bill becomes law the legislative units and the administrative programs are also very concerned with the development of regulations and guidelines. Regulations are required under the Administrative Procedure Act, Public Law 79-404. In effect, they are a spelling out of the actual law in the form of rules which are published in the *Federal Register*. Guidelines, or explanations of the regulations, are not required by law. They are issued in a variety of ways. Consultants are normally used by the office in the preparation of both regulations and guidelines so that all of the best outside advice will be available in the accomplishment of these important tasks.

This is a very broad and incomplete outline of aspects connected with legislative concerns of OE. As yet, I have not discussed the Bureau of the Budget (BOB) which is, of course, concerned with all federal programs and has staff members who are knowledgeable of library programs. BOB's interest in library programs, as documented by Richard H. Leach in his National Advisory Commission on Libraries study, is making a distinct contribution to LSCA legislation.¹⁷ The President, in addition, through his White House advisors, is always in close contact with legislative proposals at all stages.

One must always be impressed by the work of the congressional committees and their staffs. The efforts of the joint committees—particularly in connection with complicated legislation—are invaluable. Committee members are often faced with a relentless time factor.

An acute and continual problem in connection with OE's library proposals and programs is 1) to determine the best way of assessing and measuring progress and results of current programs and 2) to accurately determine the extent of need for new or further legislation.

Samuel Halperin, former HEW Deputy Assistant Secretary for Legislation in the Johnson administration, crystal-gazed in a January 1969 *Wilson Library Bulletin* article by noting that not only was the

competition for federal funds likely to be keener than ever before, but that there was a growing need for hard data. He wrote: "When there are all kinds of good things to do, only effective presentations which demonstrate positive correlations between investment in library services and improved learning and public enlightenment can provide any measure of confidence in the future growth of Federal support for libraries."¹⁸

Going back to the early days of the LSA/LSCA legislation, great reliance was placed on straight statistical reporting by the state library agencies, both as to original needs and progress under the programs. In determining the needs of school and academic libraries, great weight was placed on the library statistics which were collected and issued by OE. The American Library Association standards usually served as the base in determining need. The standards, basically geared to measure individual libraries, were applied with some difficulty to the national library picture by OE and were published in *National Inventory of Library Needs*, by the American Library Association in 1965.¹⁹

Some of the best discussions on different aspects of library statistics—including addresses by Germaine Kretttek and Dan Lacy specifically focused on the use of statistics with legislation—can be found in the proceedings of the 1966 national conference on library statistics in Chicago which was co-sponsored by the Library Administration Division of the American Library Association and OE's National Center for Educational Statistics.²⁰

The initial period of complete dependence on the ALA standards as an acceptable measuring device soon passed. With the addition and expansion of all types of federal aid programs, there was an increasing need for the federal government, most specifically, BOB, to have sharper and more standardized measurement devices in determining the effectiveness of programs. In OE, library programs had to be evaluated against other education programs in determining which programs were to be expanded, decreased, or dropped. Guidelines for the development of an integrated program planning budgeting system (PPBS) were issued by BOB to the heads of all executive departments and establishments. A time schedule was set up whereby all agencies would develop and integrate, as fully as practical, their planning and programming with budgeting.

Under PPBS, as part of a yearly cycle, program objectives were identified and alternate ways of meeting these objectives were subjected to systematic comparison. PPBS was applied not only to current

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library programs, but also to proposals for new legislation. Early in 1967 the Division of Library Programs developed its first "output measures" for its programs, measures which were further refined in 1968. The various national library standards, when applicable, were used as a foundation. When professional standards were lacking, reasonable norms were carefully devised. The entire process made clear the need for better ways to measure the effectiveness of library programs. This was further evidenced by a research study, *An Overview of the Library Services and Construction Act—Title I*, by the System Development Corporation, Santa Monica, California.²¹ This study to determine the impact of federal funds on public library services and to measure the effectiveness of state programs under this title, noted in its conclusions that a major problem was a lack of criteria with which to measure library performance. The most prominent example of this lack was in the measurement of library programs for the disadvantaged, a prime target area for federal support. OE has since funded a research project on public library services to the disadvantaged.

Currently, a new approach is being used in DHEW—the operational planning system which is designed to complement other management planning, information, and control mechanisms in the department. The department's goals are a part of this new management framework. The new focus is on the careful selection of department objectives, the selection of which will involve all units and levels of the department. The regional offices of DHEW will be making a much greater contribution to the planning and evaluation process and to the setting of objectives. The final selection of objectives will represent those on which the department expects to concentrate its greatest efforts, proposing new or amended legislation when needed for their accomplishment. Sub-units of the department can have separate and more specialized objectives, not included in the final department selections.

At the beginning of each planning/budgeting cycle, OE—in consultation with DHEW and BOB—identifies a list of major program issues (or questions) facing American education which require analysis and resolution. Consideration of pertinent legislation is highlighted in the analysis, and the recommendations may include either new or revised legislation.

The DHEW operational planning system—together with other ongoing planning activities (including PPBS)—is the framework for results-oriented management which attempts to direct management action toward the secretary's priorities and other key activities of the

department. It provides a vehicle for an improved national dialogue on major operating issues, progress, and problems.

Goals of the Commissioner of Education include the development of a nationwide strategy for maintaining a continuing process of improvement and relevance in American education. The Commissioner is greatly concerned with the elimination of failures with respect to the education of the disadvantaged and with the provision of adequate human, material, and financial resources and their more effective distribution in relation to educational needs.

A key word from the highest to the lowest levels of the present administration is *accountability*, a factual basis for an understanding of the relationship between expenditures and performance in education. Under the premise of accountability, institutions and communities will be held accountable for the results of education just as a business is judged for its productivity and for the quality of its products. The "independent accomplishment auditor" will be a new important professional in determining the effectiveness of programs.

Additional administration stress is on the consolidation of programs with a major share of administrative responsibilities being shifted to the states. There will be greater focus on research and evaluation with results being translated into action. Assistance to the disadvantaged will increase. Translating this into library programs, Title II-A (College Library Resources) of HEA, may be focused on the institutions with the greatest needs—growing school enrollments, outdated collections, or particular financial needs. This concern will be carried over to library training and education. The library training program, now under Title II-B of HEA, may be redirected to focus on the areas of greatest needs. In the short-term institutes, as an example, there would be particular emphasis on training librarians and paraprofessionals working in poverty areas.

The four proposals in the President's message on education of March 3, 1970—the National Institute of Education (as a focus for a more coherent national approach to educational research and experimentation), the Commission on School Finance, the national Right to Read effort, and the Early Learning Program—will provide direction to the changes which must take place in this decade. However, there can be no success for these proposals unless citizens and educators, including librarians, are receptive to the need for change and are ready to act.

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References

1. Brown, Charles H. "How to Get a Bill through Congress," *Today's Education*, 58:31, March 1969.
2. U.S. Congress. House. Committee on Education and Labor. Special Subcommittee on Education. *Study of the United States Office of Education under the Authority of House Resolution 614; Report*. Washington, D.C., U.S.G.P.O., 1967.
3. *Ibid.*, p. 428.
4. Low, Edmon. "The Impact of Federal Legislation on Academic Libraries." In Winifred Ladley, ed., *Federal Legislation for Libraries* (Allerton Park Institute, No. 13). Urbana, University of Illinois Graduate School of Library Science, 1967, p. 36.
5. Daniel, Hawthorne. *Public Libraries for Everyone; The Growth and Development of Library Services in the United States, Especially since the Passage of the Library Services Act*. Garden City, N.Y., Doubleday, 1961, p. 39.
6. U.S. Congress. House. Committee on Education and Labor. Special Subcommittee on Education, *op. cit.*, p. 430.
7. Bailey, Stephen K., and Mosher, Edith K. *ESEA: The Office of Education Administers a Law*. Syracuse, N.Y., Syracuse University Press, 1968.
8. Low, *op. cit.*, pp. 35-38.
9. Leach, Richard H. "A Broad Look at the Federal Government and Libraries." In Douglas M. Knight and E. Shepley Nourse, eds., *Libraries at Large; Tradition, Innovation, and the National Interest*. New York, R. R. Bowker, 1969, p. 369.
10. U.S. Congress. House. Committee on Education and Labor. Special Subcommittee on Education, *op. cit.*, p. 433.
11. Leigh, Carma. "The Role of the American Library Association in Federal Legislation for Libraries." In Winifred Ladley, ed., *op. cit.*, pp. 76-88.
12. U.S. Advisory Committee on Education. *Report of the Committee. February 1938*. Washington, D.C., U.S.G.P.O., 1938.
13. Joeckel, Carleton B. *Library Service . . .* (U.S. Advisory Committee on Education, Staff Study, No. 11). Washington, D.C., U.S.G.P.O., 1938.
14. U.S. National Advisory Commission on Libraries. *Library Services for the Nation's Needs: Toward Fulfillment of a National Policy. Report*. Washington, D.C., Office of Education, National Advisory Commission on Libraries, 1968. Text also in the following: *ALA Bulletin*, 63:67-94, Jan. 1969; *Congressional Record*, E9355-E9368, Oct. 21, 1968; ERIC Document, ED 020 446; and Knight, Douglas M., and Nourse, E. Shepley, eds. *Libraries at Large . . .*, *op. cit.*, pp. 495-521.
15. U.S. Congress. House. Committee on Education and Labor. Special Subcommittee on Education, *op. cit.*, pp. 421-37.
16. *Ibid.*, p. 426.
17. Leach, *op. cit.*, p. 376.
18. Halperin, Samuel. "Library Legislation: Today and Tomorrow," *Wilson Library Bulletin*, 43:467, Jan. 1969.
19. U.S. Office of Education. Library Services Branch. *National Inventory of Library Needs*. Chicago, ALA, 1965.

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20. National Conference on Library Statistics, Chicago, 1966. *National Conference on Library Statistics. [Proceedings.]* Alfonse F. Trezza and James Beasely, eds. Chicago, ALA, 1967.

21. System Development Corporation, Santa Monica, Calif. *An Overview of the Library Services and Construction Act—Title I.* New York, R. R. Bowker, 1969.