



Federal Education Update



Noelle Ellerson Ng
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What's Happening Now & Why?

- **In the White House:** So. Many. Executive Orders.
- **On the Hill:** Last Congress was least productive Congress since the Great Depression. New Congress is here but not promising much of a different experience.
- **In the Courts:** Flurry of far-reaching decisions in the final weeks of session are both contributing to election year tensions and potentially reversing decades of precedent. This session is shaping up to be just as impactful.
- **Putting It All Together:** Our path is forward. Schools will still open. Kids will still show up. Federal policy will still need to be implemented. At the end of the day, Congress can only do better if they know better, and that's what this conference and your advocacy are all about.
- **Looking Ahead:** We keep in mind that often times, our wins are the bills that don't become law. We look to make sure the big bills that do move—like approps—aren't used as a Trojan Horse for other bills. We expect Congress to focus on reconciliation (tax cuts!) and funding, but aren't certain what else could meaningfully move.

What's Next?


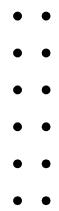
- Take things seriously, but not literally.
- Who will be USED Secretary of Education? Will there be a USED?
- Shock and Awe.
- The difference between activity and productivity.
- Pay attention to what is said, and what is covered, and what actually gets done.
- Education Priorities for the 119th: FY25 funding, school choice/vouchers, E-Rate/USF
- OTHERS: Title IX, Overtime Rule, Office of Civil Rights
- What does enforcement look like post-Chevron?



Immigration & Schools

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- **BACKGROUND**

- Plyler v. Doe Supreme Court case established that all children, regardless of immigration status, have the right to a public education. Schools cannot deny a student a public education based on immigration status.
 - FERPA) protects the privacy of student education records and restricts the sharing of personally identifiable information (PII) without parental consent. This includes data that might indirectly reveal a student's immigration status. FERPA applies to all educational institutions that receive funding under any program administered by the U.S. Department of Education, including K-12 schools and colleges/universities. Importantly, FERPA explicitly supersedes any conflicting state laws that attempt to mandate the release of protected student data. Additionally, FERPA generally prohibits schools from sharing student records with immigration or law enforcement agencies without consent or a judicial order.
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Immigration & Schools



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- **WHAT'S GOING ON**

- There are reports that a new memo from the Trump Administration rescinds a 2021 memo by DHS Secretary Alejandro Mayorkas that designated schools, as well as other community services as “protected areas”.
- This 2021 rule stated that to the extent possible, ICE agents should not carry out any enforcement activities in these locations.

White House Executive Orders: Overview

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- Implementing a federal hiring freeze of civilian employees for 90 days to allow for submission of a “plan to reduce the size of the Federal Government’s workforce through efficiency improvements and attrition.” In the first Trump Administration, the Department of Education had a multi-year hiring freeze.
- Regulatory freeze pending review prohibiting any agencies from issuing a rule until the new department head approves it, and to immediately withdraw any pending rules. The Department of Education had already withdrawn several student loan repayment plans that were still in the approval process, so I am not sure if this has an additional impact there.
- “Defending women from gender ideology extremism and restoring biological truth to the federal government” requires all federal policies to recognize only male and female as the two sexes assigned at birth and for all policy to abide by those definitions, ending the option of gender self-identification. It lists several Department of Education regulations and guidance documents under Section 7, part c, subsection (ii).
- “Ending radical and wasteful government DEI programs and preferencing” that includes within 60 days ending all federal DEI or environmental justice positions and services and assessing whether any programs were relabeled since the election “in an attempt to preserve their pre-November 4, 2024 function.” There are some education programs that mention having a diverse educator workforce and approaches designed to take into account students’ backgrounds that may be impacted.
- “Initial rescissions of harmful executive orders” rescinds many overarching Biden Administration orders including ones: on DEI; several on discrimination related to gender identity and sexual orientation; reopening of schools during the pandemic; and several that established White House offices on faith-based and neighborhood partnerships, advancing equity to various minority populations, strengthening tribal colleges and universities, advancing educational equity for Black Americans.

In the Courts: What's Next?

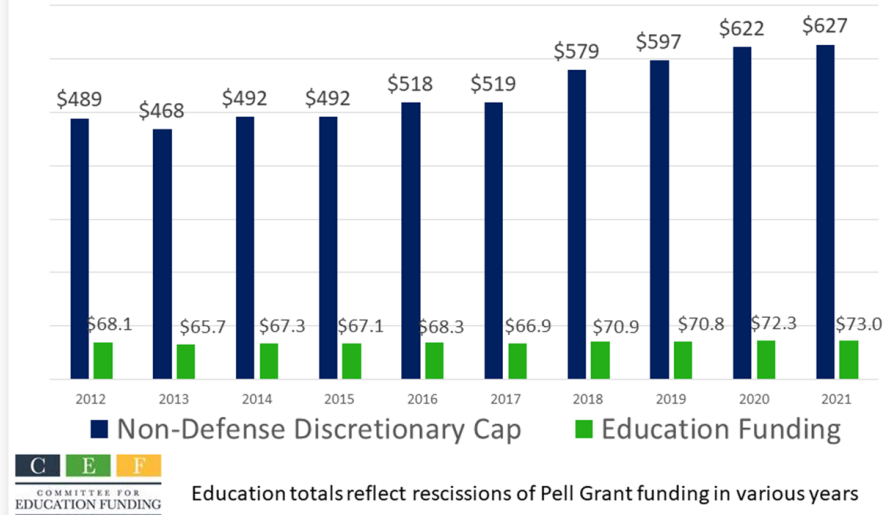
- *Consumers v. FCC*: Constitutionality of Universal Service Fund program funding mechanism
- *Oklahoma Statewide Virtual Charter School Board v. Drummond*: Do the academic and pedagogical decisions of a private school constitute state action merely because the school contracts with the state to provide free educational options to students? Does a state violate the Free Exercise Clause of the First Amendment by excluding privately run religious schools from its charter school program solely based on their religious nature?
- *Mahmoud v. Taylor*: Does a public school district's decision to eliminate opt-out options for parents objecting to curriculum materials on religious or moral grounds violate the constitutional rights of parents under the First Amendment's Free Exercise Clause
- *A.J.T. v. Osseo Area Schools*: This case that addresses the standard required for students with disabilities to seek relief under the Americans with Disabilities Act (ADA) in educational settings. The central issue is whether the ADA mandates that students demonstrate a "bad faith or gross misjudgment" standard when pursuing claims of discrimination related to their education. The Court's decision could significantly influence the legal thresholds for disability discrimination claims in schools.

RECAP: Fiscal Responsibility Act

- Looming large over FY24 & FY25
- 2023 agreement to suspend debt ceiling for 2 years in exchange for spending caps

Education Funding Was Cut or Stagnant Under Caps from 2012 to 2021

(Dollars in Billions)

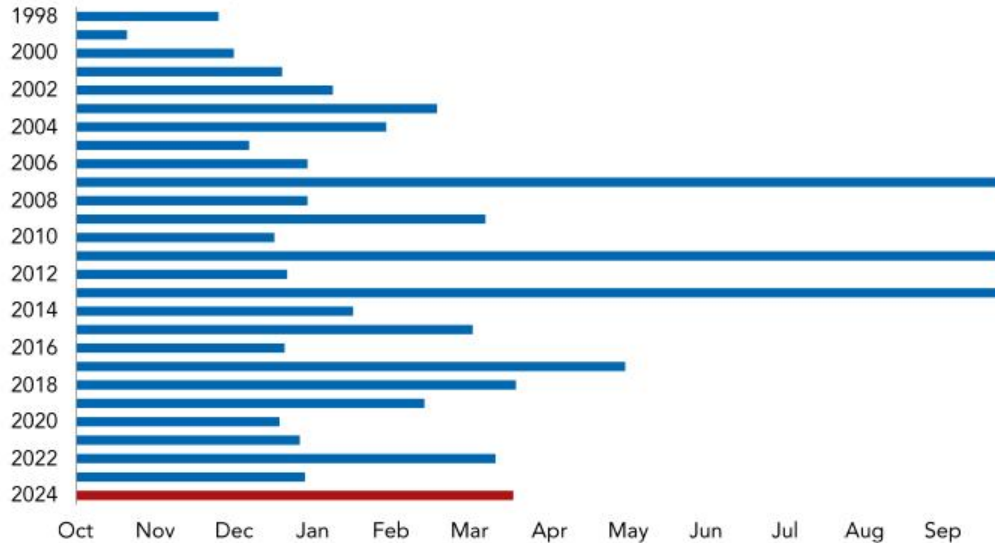


Increasing Reliance on CR



Lawmakers have increasingly been using continuing resolutions to fund the government for longer periods

Duration of Continuing Resolutions Each Fiscal Year



SOURCES: Congressional Research Service, Appropriations Status Table: FY2020 through FY2024, March 2024; and Continuing Resolutions: Overview of Components and Practices, September 2022.

NOTE: Appropriations for Fiscal Year 2024 are ongoing, meaning the duration of continuing resolution(s) may change.

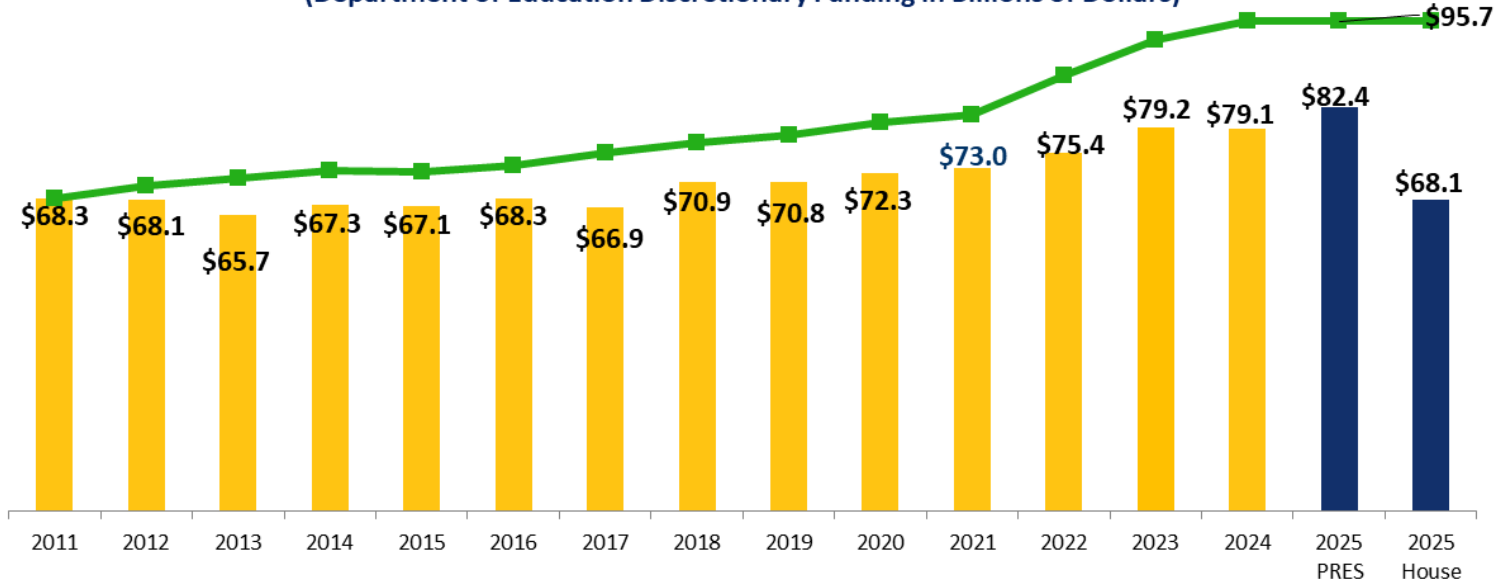
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PGPF.ORG

Source: <https://www.pgpf.org/blog/2024/03/continuing-resolutions-were-designed-to-be-stopgap-measures-but-now-we-average-five-a-year>

House Bill Cuts Education Funding for 2025 to Below 2011 Enacted Level (\$28 billion Below Inflation-Adjusted Level)

(Department of Education Discretionary Funding in Billions of Dollars)



■ ED funding

■ 2011 Adjusted for Inflation (2024 Constant Dollars)

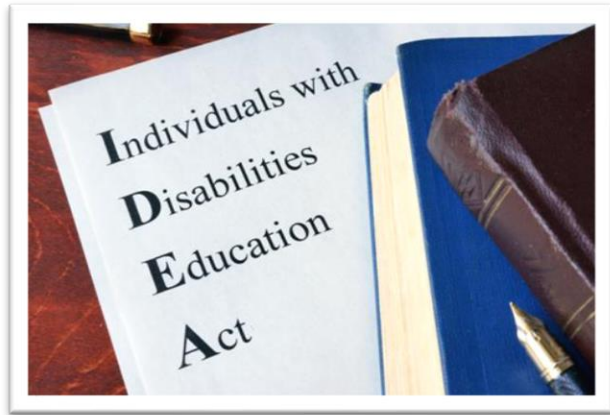
2017, 2019, 2020, 2021, 2022, & 2023 totals reflect rescissions of previously appropriated ED funding

FY25 Appropriations Proposals

| Program | FY24 Final | FY25 House | FY25 Senate |
|------------------|------------------|--------------------------|---------------------------|
| Title I | \$18.407 billion | \$14.626 billion (-4.7b) | \$18.687 billion (+280 m) |
| IDEA | \$14.214 billion | \$14.239 billion (+25 m) | \$14.509 billion (+295 m) |
| Title II | \$2.19 billion | \$0 (-2.19 billion) | \$2.19 billion (level) |
| Title III | \$890 million | \$0 (-890 m) | \$895 million (+5 m) |
| Title IV, Part A | \$1.39 billion | \$1.39 billion (level) | \$1.39 billion (level) |
| Impact Aid | \$1.625 billion | \$1.630 billion (+5 m) | \$1.645 billion (+20 m) |
| REAP | \$220 million | \$225 million (+5 m) | \$230 million (+10 m) |

IDEA Full Funding

IDEA Full Funding Act (TBD)



- HAPPY 50th, IDEA!!!
- AASA is proud to co-chair the IDEA Full Funding Coalition
- We held our first in-person IDEA Funding hill briefing in more than 5 years
- Looking to build on success of last Congress, with bipartisan bills in both chambers.
- Currently working on a bill that provides a ten-year glide path to help Congress realize its funding commitment
- IDEA currently at ~ 10%

Legislation Repeats?

- Privacy: Kids Online Safety Act, Children and Teens Online Privacy Protection Act, Americans Privacy Rights Act, Kids Online Safety Protection Act
- Teachers: Loan Forgiveness and funding for Title II
- School Meals: Biden administration finalized rule related to sugar, fat, sodium and grains in schools (see next slide)
- Secure Rural Schools/Forest Counties: Did not make it over the finish line.
- Social Security/Windfall Elimination Provision: Signed into law.
- Eyes on the Board Act: Set to be reintroduced

School Nutrition Regulations: Final Rule

USDA Food and Nutrition Service
U.S. DEPARTMENT OF AGRICULTURE

FINAL RULE FOR SCHOOL MEAL STANDARDS

Updated School Meal Standards: working towards a common goal of healthy children and helping them reach their full potential.

School meals are the main source of nutrition for millions of children every school day. USDA is ensuring these meals are even more nourishing, while keeping them appealing to kids.

Key Provisions

- Whole Grains**
Schools may continue to offer a variety of nutrient-rich whole grains with options for some enriched grains (no changes in standard)
- Milk**
Continue to allow flavored and unflavored milk (no changes in standard) with new limits on added sugars
- Added Sugars**
Limit using a phased approach:
 - Phase 1:** Limits on specific high-sugar products (cereals, yogurt, flavored milk)
 - Phase 2:** Overall weekly limits
- Sodium**
Gradually phase in one reduction of weekly limit

- Final rule released April 2024
- No changes until SY2025-26, phased-in implementation
- Huge win on sodium limits: from a proposal of three reductions in sodium to just one
- Added sugar limits for the first time

E-Rate

FCC “Learn Without Limits” Initiative

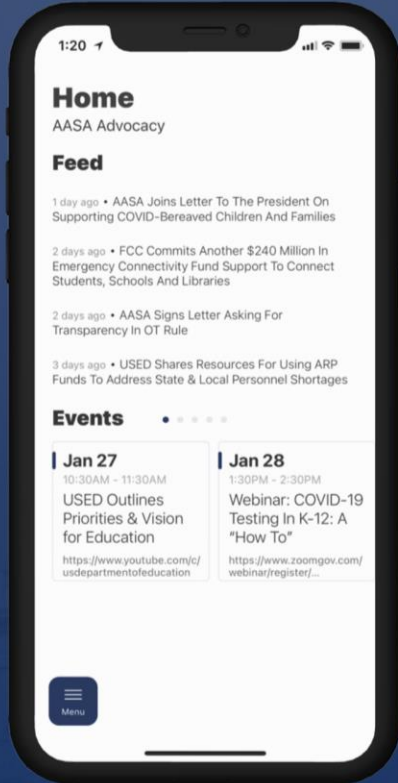
- Allow E-Rate funds to be used for Wi-Fi services on school buses. (Effective FY24)
- Allow E-Rate funds for schools/libraries to loan out Wi-Fi hotspots and wireless Internet services to students, school staff, and library patrons for off-premises educational purposes. (FCC 3-2 Vote on July 18)
- Create a \$200 million 3-yr. K-12 cybersecurity pilot program for schools and libraries, funded separately from E-Rate but part of the Universal Service Fund (USF).
 - Awardees announced Jan 16!

Legal Issues:

- Lawsuit challenging E-Rate expansion to include Wi-Fi hotspots on buses.
- **AASA Advocacy:** Amicus brief supporting E-Rate’s appropriate and lawful expansion.
- 5th Circuit Court of Appeals ruling: The current mechanism for funding the Universal Service Fund (USF) – which funds E-Rate, Lifeline, Rural Health Care, and the Connect America Fund (High-Cost Support) programs – is unconstitutional.
- APPEALED to Supreme Court: AASA led amicus brief, hearing not yet set.

Things We Are Looking Out For

- Immigration: Questions around Plyler and FERPA
 - Recording of January 15 immigration webinar RECORDING or SLIDES
 - Uptick in enforcement and what that means for students
- Taxes! Tax Cuts Act
 - Considerations: Tax Credit (voucher) and changes to federal definition of AGI
- Reconciliation: But we don't expect it to be quick
- Approps: FY 25 and 26, with the added fun of debt ceiling!
- Day One with President Trump: Continued analysis of flurry of administrative actions spanning many policy areas; has referenced withholding funds from schools that teach 'woke' content or have vaccines mandates, and action on prohibiting transsexual individuals from participating in women's sports or serving in the military



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Keep up to date with the most impactful changes coming from Capitol Hill. The AASA Advocacy app offers a curated selection of the most relevant news for school administrators. It empowers school leaders to stay informed, and helps shape the future of educational policy.



A RESOLUTION CALLING FOR FULL, PERMANENT FUNDING OF IDEA

WHEREAS, public education is the cornerstone of our democracy, providing fundamental skills and opportunity to nearly 90% - 50 million - to children across the United States; and,

WHEREAS, In the decade following the Great Recession, students across the U.S. lost nearly \$600 billion from the states' disinvestment in their public schools; and

WHEREAS, prior to the COVID-19 pandemic, both state and federal funding for public schools failed to meet the critical needs of students across the country; and,

WHEREAS, the federal government provided nearly \$200 billion through three issuances of the Elementary and Secondary School Emergency Relief Act (ESSER) to states and school districts, including [\$\$\$] to the [SCHOOL DISTRICT]; and,

WHEREAS, the realized impact of ESSER funding is that it has benefited students' academic, social, emotional, and mental health needs through targeted programming and additional personnel, enhanced professional development opportunities, new technology as well as critical updates to school facilities; and

WHEREAS, research has consistently shown that increased education funding positively affects academic performance, increases graduation rates, and impacts future earnings; and,

WHEREAS, without an infusion of federal public education funding by Congress, it is estimated that districts will have to cut an average of \$1,200 per student from their budget; and,

WHEREAS, the systematic and chronic underfunding of public schools is a strategy by those who want to dismantle the public education system to decimate the quality of education that public schools can provide;

WHEREAS, when Individuals with Disabilities Education Act (IDEA) was passed in 1975, the federal government committed to pay 40 percent of the average per pupil expenditure for special education to ensure that every child with a disability has access to a high quality education; and,

School Board Resolutions

AASA is sharing two template school board resolutions that your district could consider passing:

1. Urging full federal funding for IDEA
2. Opposing state and federal funding for private school vouchers

Find them here:

<https://www.aasa.org/resources/resource/template-resolution-fund-idea>

Federal School Law Certificate

In AASA's new Federal Education Law Certificate program, you'll learn from distinguished school attorneys who will help you gain the understanding to navigate complex regulations, protect your district, and focus on what truly matters: providing the best possible education for your students.

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Contact Us!

Noelle Ellerson Ng
nellerson@aasa.org
703-774-6935

Sasha Pudelski
spudelski@aasa.org
703-774-6933

Tara Thomas
tthomas@aasa.org
703-303-2551

Kat Sturdevant
ksturdevant@aasa.org
571-480-0172