



Federal Advocacy & Public Policy Team

August 6, 2021

NSBA Weekly Update

Congressional Update

Senate on the Cusp of Passing First Infrastructure Package

Last week, a bipartisan group of Senators announced that they had reached agreement on a [Bipartisan Infrastructure Framework](#) (BIF) after a months-long negotiation. Late Sunday night, August 1, text of the [Infrastructure Investment and Jobs Act](#) (IIJA) was released reflecting several changes to this agreement prior to its formal introduction in the upper chamber. If enacted, the proposal would invest roughly \$550 billion in physical infrastructure projects such as roads, bridges, and waterways, including \$65 billion for broadband connectivity and affordability and \$5 billion for electric buses. Since that time, the Senate has moved forward with the legislation with uncharacteristic speed, advancing the legislation past a key procedural hurdle Monday and with senators filing hundreds of amendments this week. While it remains unclear precisely how many amendments will be formally considered and receive a vote from the full chamber, the IIJA is widely expected to pass the Senate, largely in its current form.

The IIJA, however, can best be understood as “Track One” of Congressional Democrats’ “Two track” legislative strategy regarding infrastructure. Track two of this effort revolves around the passage of the federal fiscal year 2022 (FY22) budget resolution which is expected to be taken up by the Senate directly after the IIJA. In order to get full Democratic caucus support for the IIJA, Congressional leaders have separately agreed to move forward with a much larger infrastructure package containing Congressional Democrats’ wider proposals, as expressed in President Biden’s American [Jobs](#) and [Families](#) Plans (including billions in new funding for school infrastructure among other features of these plans). Passage of an FY22 budget resolution in the Senate will kick off the budget reconciliation process—a legislative maneuver that allows certain legislation to be passed in the Senate via a simple majority. As these intertwined processes unfold in the coming weeks, NSBA’s advocacy team will remain engaged to ensure lawmakers appreciate the substantial infrastructure needs of the K-12 community.

Senate HELP Splits Over Civil Rights Nominee

On Tuesday, August 3, the Senate Health, Education, Labor, and Pensions (HELP) Committee remained evenly divided, 11-11, over the nomination of Catherine Lhamon to lead the U.S. Department of Education’s (USED) Office for Civil Rights (OCR). Lhamon previously held this position under President Obama and oversaw a controversial overhaul of Title IX regulations, which many Senate Republicans vehemently disagreed with. Due to the Senate’s composition, which is evenly divided between Democrats and Republicans, Lhamon’s nomination will still move forward for full consideration by the Senate. However, a date for a formal Senate vote on her nomination has yet to be set.

Administration Update

USED Releases Return to School Roadmap

On Monday, August 2, the U.S. Department of Education (USED) released a “[Return to School Roadmap](#)” (Roadmap) to facilitate the return to safe, in-person instruction at K-12 schools for the upcoming school year. The roadmap is a collection of various resources aimed at schools, families, and communities to assist with their planning and to provide actionable suggestions for how best to make use of funding from the American Rescue Plan (ARP)—a pandemic aid package passed solely by Congressional Democrats which provided \$122 billion in additional funding for K-12 schools. More about this release can be found [here](#).

U.S. Department of Education Announces Additional Resources for ESSER Implementation

On August 6, the U.S. Department of Education (ED) announced that it is providing more resources to help states and school districts fulfill maintenance of equity (MOEquity) requirements for ESSER funding appropriated under the American Rescue Plan (ARP).

ED has [updated the MOEquity guidance](#) it published in June to address additional concerns that states and school districts are encountering as they work to obligate ESSER funding. The update addresses the specific areas detailed below.

- Which funding sources must an SEA include when determining whether it maintained fiscal equity for high-need LEAs and highest-poverty LEAs?
- Do the State funding sources for MOEquity differ from the funding sources for MOE?
- Which funding sources must an LEA include when determining its per-pupil funding for the purposes of maintaining fiscal equity?
- Are any LEAs exempt from the MOEquity requirements?
- What enrollment data may an SEA rely on when determining its per-pupil amount of funding for high-need LEAs and highest-poverty LEAs?
- What enrollment data may an LEA rely on when determining its per-pupil amount of funding for high poverty schools?
- A “Certification of Exception from Local Maintenance of Equity Requirements” for school districts with student enrollments less than 1,000, those that operate a single school, those educating all students within each grade span within a single school, and those impacted by uncontrollable circumstances as determined by ED.

More information is available online at <https://oese.ed.gov/offices/american-rescue-plan/american-rescue-plan-elementary-and-secondary-school-emergency-relief/maintenance-of-equity/>.

USED Approves More State ARP Plans

Following the American Rescue Plan’s (ARP) passage earlier this spring, the U.S. Department of Education (USED) distributed two-thirds of this funding to states via a prescribed formula. USED held back the remainder of these funds until states and territories submitted plans detailing how they would make use of these resources to support students as they recover from the impacts of the ongoing COVID-19 pandemic. On Thursday, August 5, the Department approved five more of these plans, releasing these additional funds to those states. States receiving approval this week include Hawaii, Montana, New

Hampshire, New York, and Pennsylvania. The most current status of all state ARP plans, including highlights of plans already approved, can be found [here](#).

Discretionary Grants

USED published a notice on one discretionary grant program for the Office of Postsecondary Education:

- **“Postsecondary Programs for Students with Intellectual Disabilities – National Technical Assistance and Dissemination Center Program”** – The Postsecondary Programs for Students with Intellectual Disabilities – National Technical Assistance and Dissemination Center provides funding to improve postsecondary education for students with intellectual disabilities through technical assistance centers that can disseminate research and best practices for institutions of higher education. The estimated available funds for this program total \$1,980,000. Applications are due by September 7, 2021, and further information is available [here](#).

USED published a notice on one discretionary grant program for the Office of Special Education and Rehabilitative Services:

- **“Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and Technical Assistance on State Data Collection – National Assessment Center”** – This program seeks to “promote academic achievement and to improve results for children with disabilities by providing TA, supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.” The State Data Collection technical assistance works to improve data collection and reporting requirements focused on the Individuals with Disabilities Education Act. The estimated available funds for this program total \$1,750,000; for IDEA Section 663 the funds total \$1,000,000; and for IDEA section 616(i) the funds total \$750,000. Applications are due by September 7, 2021, and further information is available [here](#).

Bills

- [H.R.4923](#) To prohibit Federal funding for educational agencies and schools whose students do not read certain foundational texts of the United States and are not able to recite those texts or that teach that those texts are products of white supremacy or racism. **Sponsor:** [Rep. Smith, Jason \[R-MO-8\]](#)
- [H.R.4904](#) To provide for emergency operational cost reimbursements for child nutrition programs for certain additional months, and for other purposes. **Sponsor:** [Rep. Adams, Alma S. \[D-NC-12\]](#)

NSBA Update

The next CSALS meeting will be a week from Monday on August 16. I will send out an agenda and zoom logistics before then. Have a safe weekend.